

LIEUT. JAMES GLYNN.

[To accompany bill H. R. No. 578.]

DECEMBER 29, 1846.

Mr. SCHENCK, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the petition of Lieutenant James Glynn, report:

It appears that Lieutenant Glynn was employed by the government, with other officers under his command, in making surveys and preparing charts of Beaufort, and Wilmington or Cape Fear river, in North Carolina, and of Sapelo harbor and river, and Doboy, in Georgia. He, and those employed under him, claim the same extra pay which has been allowed and paid to other officers for like service; and the committee can discover no reason why, in equal justice, their claim should not be admitted.

The petition and accompanying papers, which are hereto annexed, exhibit all the facts of the case.

The committee report a bill accordingly.

To the Senate and House of Representatives of the United States:

James Glynn, a lieutenant in the navy, respectfully states that he has, with other officers of the navy under his command, during the last two years, surveyed Beaufort, and Wilmington or Cape Fear river, in North Carolina, "with a view," as he was ordered, "to ascertain their facilities and advantages for the establishment of a navy yard;" that he has constructed charts of these surveys, and made reports thereon, which have been communicated, through the proper channel, to the honorable House of Representatives.

That he, with the assistance of other naval officers, has also surveyed Sapelo harbor and river, and Doboy, in Georgia, the charts of which surveys, and reports thereon, are now being prepared for submission to the authority directing them to be made.

That he, for himself and the officers under his command, has always claimed and believed they had a just right to expect to be allowed the same per diem, or extra allowance, that had been and is now being made to other officers of the navy while on the survey of any part of the coast of the United States. This expectation the honorable the Secretary of the Navy seems fully to recognise in his letter, (hereunto annexed,) wherein he states

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that "as there is no special appropriation out of which you can at present receive the allowance claimed, it would seem that your remedy must be in a special act of Congress to meet the case."

Therefore, it is respectfully prayed that an appropriation may be made by Congress to pay to the officers employed upon the surveys referred to in this petition the same allowances, in all cases, as have been made to other officers of the same grade employed upon similar duty.

JAMES GLYNN,
Lieutenant U. S. Navy.

WASHINGTON, *December, 1840.*

NAVY DEPARTMENT, *July 11, 1840.*

SIR: Your letter of the 29th ult. has been received. In reply to your request for a decision by the department on the claims of yourself and the officers attached to your party, to be placed on the same footing, in regard to compensation, as the officers on northern surveys, you are informed that those serving on the "coast survey" are paid from the appropriation made by Congress specifically for such survey, and that Lieutenant Wilkes and his officers, who surveyed St. George's bank, were paid their per diem out of the special appropriation for that purpose; and also that the same allowance made to Lieutenant Wilkes's party, for their southern surveys, was paid from the appropriation for the survey of the harbors of Beaufort and Wilmington.

As there is no special appropriation out of which you can at present receive the allowance claimed, it would seem that your remedy must be in a special act of Congress to meet the case.

I am, very respectfully, your obedient servant,

J. K. PAULDING.

Lieut. JAMES GLYNN,

Commanding U. S. brig Consort, Darien, Ga.

[Extract.]

ATTORNEY GENERAL'S OFFICE,

April 4, 1839.

In relation to the extra expenses of the officers engaged in the survey of the coast of the United States, in my opinion the act under consideration (3d section of the act of Congress of the 3d March, making appropriations for the civil and diplomatic expenses of the government for the year 1839) has no application to officers engaged in this service. By the act of 10th February, 1807, a survey of the coast of the United States was directed to be made, and to effect this important object the President was clothed by that act with very large discretionary powers; and the sum of \$50,000 was placed at the disposal of the President for the prosecution of the work, without any particular direction being given in the act as to the application of the money. This act, which was considered obsolete, was revived by the act of 10th July, 1832, entitled "An act to carry into effect the act to pro-

vide for the survey of the coast of the United States ;" and by this latter act the President is authorized to employ all persons in the land and naval service of the United States, and the sum of \$20,000 is appropriated towards carrying said act into effect. This act, I think, fully authorizes the President to employ land and naval officers in this particular service, and to make an allowance for their extra expenses.

FELIX GRUNDY.

Clause of the act of 3d March, 1839, cited in the opinion of the Attorney General.

"That no officer in any branch of the public service, or any other person whose salary, or whose pay or emoluments, is or are fixed by law and regulations, shall receive any allowance or compensation in any form whatever for the disbursement of public money, or the performance of any other service, unless the said extra allowance or compensation be authorized by law."

State of New York,
Clinton county,

I, John Parsons, being duly sworn, depose and testify that the claim for the payment of the sum of \$1000 made by the House of Representatives of the United States, for the construction of the breakwater in Plattsburgh, was delivered by him to Charles M. Watson, the agent of the government, with whom he contracted for the same; and that this deposition, after the said breakwater was completed by Levi Platt, the person appointed by the said Charles M. Watson, caused the same to be paid by direction of the said Charles M. Watson, between the North and South wharves in the village of Plattsburgh, nearly opposite to the breakwater; and the deponent further testifies that he resided at the time of the delivery of the timber in question, and still resides, at Saratoga, distant from Plattsburgh 17 miles; and this deponent further testifies that he has never had any agency over the said timber, nor any thing to do with it directly or indirectly, after he delivered the same to the said Charles M. Watson, agent of the government, as afore-

vide for the survey of the coast of the United States; and by this latter act the President is authorized to employ all persons in the land and naval service of the United States, and the sum of \$30,000 is appropriated towards carrying said act into effect. This act, I think, fully authorizes the President to employ land and naval officers in this particular service, and to make an allowance for their extra expenses.

MELIX GRUNDY.

Change of the act of 2d March, 1833, cited in the opinion of the Attorney General.

"That no officer in any branch of the public service, or any other person whose salary, or whose pay or emolument, is or are fixed by law and regulations, shall receive any allowance or compensation in any form whatever for the disbursement of public money, or the performance of any other service, unless the said extra allowance or compensation be authorized by law."

GEORGE PARSONS.

[To accompany bill H. R. No. 580.]

DECEMBER 29, 1846.

Mr. GORDON, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom were referred the petition and papers of George Parsons, report :

This case was examined by the Committee of Claims at the last session of Congress, and reported against, mainly from the fact that there was "no evidence," in the language of the Third Auditor, "to sustain the fact set forth in the petition, of the subsequent use of the timber by the agent, Mr. Haswell, on the breakwater." The claim is fully explained by last year's report, which is annexed.

The evidence now submitted proves that the timber *was received* by the government agent, and *was used* by him—partly at Plattsburgh, partly at Burlington—in building breakwaters for the United States at those places, and that the balance was by said agent sold.

This being the case, it becomes the duty of the government to pay for the timber received and used, or sold—amounting, in all, to the sum of \$410 50. For that sum a bill is herewith reported, and its passage recommended.

STATE OF NEW YORK, }
Clinton county, } ss :

George Parsons, being duly sworn, deposeth and saith, that the claim he has pending before the Committee of Claims in the House of Representatives of the United States, for timber furnished the breakwater in Plattsburgh, was delivered by him to Charles M. Watson, the agent of the government, with whom he contracted for the same ; and that this deponent, after the said timber was measured by Levi Platt, the person appointed by the said Charles M. Watson, caused the same to be piled, by direction of the said Charles M. Watson, between the North and South wharves in the village of Plattsburgh, nearly opposite to the breakwater ; and the deponent further saith, that he resided at the time of the delivery of the timber in question, and still resides, at Saranac, distant from Plattsburgh 17 miles ; and this deponent further saith, that he has never had any agency over the said timber, nor any thing to do with it, directly or indirectly, after he delivered the same to the said Charles M. Watson, agent of the government, as afore-

said ; and that he is as totally ignorant of what disposition was made of the said timber, as he is of any other lot or lots of timber that were delivered to the government by other contractors for the breakwater at Plattsburgh ; and this deponent further saith, that he has not received from the said Charles M. Watson, agent as aforesaid, nor from the government, nor from any one else, a farthing for or on account of the timber by him in good faith delivered to the government, through the said Charles M. Watson, their agent, which said timber is the same specified in the affidavits of the said Charles M. Watson and Levi Platt, which said affidavits are, as this deponent is informed and believes, now before the Committee of Claims ; and further this deponent saith not.

GEO. PARSONS.

Sworn and subscribed to before me this 14th February, 1846.

J. D. WOODWARD,

Judge of Clinton county court.

We, the undersigned, inhabitants of the town of Plattsburgh, county of Clinton, State of New York, certify that we have been personally acquainted with the Hon. George Parsons, whose name is appended to an affidavit on the first page of this sheet, for several years past ; that he is a man of truth and veracity, and that the most implicit confidence can be placed in his statements.

JAMES BAILEY.

F. L. SAILLY.

ST. JNO. B. L. SKINNER.

C. HALSEY.

CHARLES H. JONES,

Clerk of Clinton county.

THOS. CROOK.

STATE OF NEW YORK, } ss :
Clinton county,

Amasa D. Ladd, of Plattsburgh, being duly sworn, deposeth and saith, that he has been principal agent for the owners of the North and South wharves in Plattsburgh for nine years past ; and this deponent further saith, that in the winter and spring of 1839, George Parsons delivered and piled between the wharves aforesaid a quantity of breakwater timber, mostly of black ash, and that at that time Charles M. Watson was the acting agent of the government in the purchase of timber and other materials for the breakwater in Plattsburgh bay, and was superintending the building of the same ; and this deponent further saith, that the place where the said George Parsons piled the aforesaid breakwater timber was the place where the said Charles M. Watson, agent as aforesaid, received the great bulk of the breakwater timber purchased by him for the government ; and this deponent further saith, that the timber aforesaid delivered by the said George Parsons was considered by him as the property of the government, and was so called by all of the citizens who knew any thing about the breakwater operations ; and this deponent further saith, that for months together the timber in question was left exposed to plunder on the bank of the lake, without any agent or any one else to look after it ; and although

he, this deponent, passed the timber almost daily, and sometimes a dozen times a day, yet he is unable to say what disposition the government made of the said timber; and this deponent further saith, that the said George Parsons never, to his knowledge, had any thing to do with aforesaid timber after he delivered and piled the same, either directly or indirectly; and further this deponent saith not.

A. D. LADD.

Sworn and subscribed before me this 16th day of February, 1846.

D. B. McNEIL,

Sup. Court Com'r.

We, the undersigned, inhabitants of the village of Plattsburgh, State of New York, certify that we have been personally acquainted with the above named A. D. Ladd, principal agent for the wharves in this village, (they being both owned by one and the same company,) for many years past, and that he is a man of truth and veracity.

F. L. SAILLY.

ST. JNO. B. L. SKINNER.

C. HALSEY.

CHARLES H. JONES,

Clerk of Clinton county.

PLATTSBURGH, *February 17, 1846.*

STATE OF NEW YORK, }
Clinton county, } ss:

Lewis Martin, of Plattsburgh, Clinton county, deposes and says, that he resided at the South wharf, in Plattsburgh, in the winter and spring of 1839, and that Jeremiah Lowe, during that winter and spring, delivered a quantity of breakwater timber for George Parsons, which timber was piled between the North and South wharves at Plattsburgh, nearly opposite to the breakwater, in Plattsburgh bay; and this deponent further saith, that the Wharf Company purchased a quantity of the said timber of Rufus A. Gilman, in 1842, a sub-agent of N. B. Haswell, the person who at that time was the agent of the government, and had the charge and superintendence of the breakwater in Plattsburgh bay; and this deponent further saith, that the residue of the timber delivered by the said Jeremiah Lowe, for the said George Parsons, for the Plattsburgh breakwater, was rafted by direction of the aforesaid N. B. Haswell, agent of the aforesaid breakwater, and, as this deponent was informed, taken to Burlington, to be used in the breakwater at that place; and this deponent further saith that the heft of the timber delivered to the government by the said George Parsons, for the Plattsburgh breakwater, was black ash; and further this deponent saith not.

LEWIS MARTIN.

Sworn and subscribed before me this 20th of March, 1846.

D. B. McNEIL,

Sup. Court Com'r.

We certify that the within named Lewis Martin is a man of truth and veracity, and that his statements are entitled to credit.

D. B. McNEIL,

JAMES BAILEY.

STATE OF NEW YORK, } ss:
Clinton county,

James Bailey, of Plattsburgh, Clinton county, merchant, being duly sworn, deposeth and saith, that, some three or four years since, the Wharf Company in Plattsburgh wanted to purchase some timber to repair their wharf, and this deponent, who is one of the proprietors of the said wharf, understood that George Parsons had some timber near the said wharf; that he inquired of the said George Parsons whether he owned the timber in question, and the said George Parsons informed deponent that he had sold and delivered the timber in question to the government, for the breakwater that was at that time building in Plattsburgh bay; and this deponent further saith that his object in inquiring of the said George Parsons whether he owned the timber near the wharf was, because the Wharf Company wanted some black ash timber to repair their wharf; and this deponent further saith that the timber bought for the breakwater was piled between the two wharves, in Plattsburgh, and that what was not used in the breakwater and sold to individuals, by the breakwater agents, was rafted and taken to Burlington, as this deponent is informed and verily believes to be true; and this deponent further saith that the Wharf Company, of which he is one of the proprietors, purchased of N. B. Haswell, through Rufus A. Gilman, his agent, a quantity of breakwater timber lying between the wharves, nearly opposite the breakwater; and this deponent further saith, that the timber purchased by the Wharf Company was taken from the pile which the said George Parsons sold and delivered to the government for the aforesaid breakwater, as he was informed and verily believes to be true; and further this deponent saith not.

JAMES BAILEY.

Sworn and subscribed before me this 9th day of March, 1846.

D. B. McNEIL,

Sup. Court Com'r.

We, the undersigned, inhabitants of the village of Plattsburgh, State of New York, certify that we are personally acquainted with the above named James Bailey; that he is a man of truth and veracity, and that the most implicit confidence can be placed in his statements.

D. B. McNEIL.

G. M. BECKWITH.

JAS. B. PARDY.

THOS. CROOK.

CHARLES H. JONES,

Clerk of Clinton county.

FEBRUARY 25, 1846.

The Committee of Claims, to whom was referred the petition of George Parsons, report:

It appears that the timber for which the petitioner claims compensation was not delivered within the time limited in his contract, and there is no proof that it was used by the government. For aught that appears, the petitioner himself used it. There is abundant evidence that Mr. Parsons had notice not to deliver any more timber, owing to the want of any appropriation, and that, too, before the pretended delivery. The government was under no obligation to receive it after the time limited in the contract for its delivery, which was thirty and sixty days from the date of the contract. It was his own folly to deliver the timber when he did; and the government, not having accepted and used it, is not bound to pay for it.

The petition and papers referred to the committee are hereunto annexed, and made part of this report.

The committee offer the following resolution:

Resolved, That the claim be rejected.

No. 1.

To the Senate and House of Representatives of the United States in Congress assembled:

Your petitioner, George Parsons, of the town of Saranac, in the county of Clinton, in the State of New York, most respectfully represents to your honorable bodies that, in the month of September, A. D. 1839, your petitioner, in pursuance of a contract with Charles M. Watson, esq., the agent of the United States to superintend the construction of the breakwater in the harbor at Plattsburgh, New York, delivered a quantity of timber at that place for the construction of said breakwater, which was received, and has been used for that purpose by Mr. Haswell, who succeeded Mr. Watson as agent. But your petitioner has failed to obtain full payment for the said timber, according to the price agreed to be paid, inasmuch as the accounting officer at the Treasury Department is of the opinion that all appropriations for said breakwater were exhausted at the time said contract was made, and that therefore it was made without authority of law by the aforesaid agent. Your petitioner prays that your honorable bodies will pass a law authorizing the proper officer to settle his account for said timber, and pay him therefor out of any moneys which may be appropriated for said harbor; or for such other relief as they may deem meet in the premises.

GEO. PARSONS.

JUNE 3, 1844.

No. 2.

*The United States,**To George Parsons,*

DR.

1839. Sept. 10.	To 36 sticks timber for breakwater at Platts-	
	burgh, averaging 40 feet long, at \$4 50	\$162 00
	To 71 sticks less than 40 feet long, and over 26	
	feet long, at \$3 50 per stick	248 50
		<u>\$410 50</u>

STATE OF NEW YORK, }
 County of Clinton, } ss:

George Parsons, of Saranac, in the county of Clinton, being sworn, says that the above account is justly due to this deponent from the United States; that he delivered the timber charged in the above account to Charles M. Watson, late United States agent for constructing the breakwater at Plattsburgh, in the summer or fall of 1839; that Levi Platt, of Plattsburgh, measured said timber by directions of Col. Watson, and that deponent has not at any time received payment for said timber from Col. Watson, nor from the United States; deponent further says that said timber was piled up north and adjoining the new dock in Plattsburgh, by direction of said C. M. Watson, in the fall of 1839.

GEO. PARSONS.

Sworn before me, this 29th day of April, 1843.

PETER J. ROBERTS, *Justice Peace.*

I, George Parsons, do hereby authorize Peter J. Roberts, of Plattsburgh, to collect and receive from the United States payment on the above account.

GEO. PARSONS.

APRIL 29, 1843.

I hereby certify, that on the 15th day of December, 1838, I entered into a contract, in behalf of the United States government, with George Parsons, of Plattsburgh, for five hundred sticks of hemlock timber, of 40 feet and over in length, for which government was to pay four dollars and fifty cents each stick, delivered at or near the breakwater at Plattsburgh, New York, and for two hundred sticks to average 35 feet in length, for three dollars and fifty cents each stick; the payment for which was made conditional on a future appropriation being thereafter made by Congress for the improvement of the harbor of Plattsburgh, as, by reference to the duplicate contract on file in the Topographical bureau, will more fully appear, and delivered on those conditions.

And I do further certify, that said George Parsons did deliver on the above-mentioned contract, as I am informed and believe, and which timber

I personally examined on the bank of the lake near said breakwater—

36 long sticks of timber, and

71 short sticks of timber—

for which he is justly entitled to receive four hundred and ten dollars and fifty cents from the United States government; and that I employed Levi Platt, esq., to measure said timber.

CH'S M. WATSON,

Late U. S. agent for the improvement of the harbor of Plattsburgh.

PORT KENT, April 29, 1843.

PORT KENT, December 15, 1838.

DEAR SIR: I have to inform you that a contract will be prepared for you under the advertisement of August 12th last, for five hundred of the long hemlock sticks, to be not less than forty feet long; to average forty-eight feet in length, and twelve inches at the small end. Also, for two hundred of the short hemlock sticks, to be not less than twenty-six feet in length, and twelve inches at the small end.

This contract, with the one already given of two hundred sticks, will amount to seven hundred of the long logs, and two hundred of the short ones, and is intended to embrace all the sticks now delivered by and for you, and to contain the same provisions as the contract for two hundred sticks, with an additional covenant, making the payment of eighty per cent. contingent upon an additional appropriation by Congress; and that those delivered by water are to be piled in square piles on the beach, at least four courses high.

Very respectfully, your obedient servant,

CH'S M. WATSON, U. S. Agent.

HON. GEORGE PARSONS.

No. 3.

A contract, entered into this 16th day of August, in the year one thousand eight hundred and thirty-eight, between the United States of America, by Charles M. Watson, their agent, of the first part, and LEVI PLATT, of the second part, witnesseth:

First. Said party of the first part, in consideration of, and on the performance of the several covenants and agreements hereinafter made by said party of the second part, hereby covenants and agrees to pay said party of the second part, his heirs or assigns, on the delivery of the following described bill of timber, the sum of nine hundred dollars; that is to say, for

Fifty sticks hemlock timber, 50 feet long, \$4 50 for each stick;

Fifty sticks hemlock timber, 48 feet long, \$4 50 for each stick;

Fifty sticks hemlock timber, 47 feet long, \$4 50 for each stick;

Fifty sticks hemlock timber, 46 feet long, \$4 50 for each stick.

All the above pieces to be sound and straight, not less than eleven inches at the small end; to be delivered at the breakwater, Plattsburgh, New York,

one-half within thirty days, and the remainder within sixty days from the date of these presents.

Second. Said party of the second part, for himself, his heirs and assigns, hereby covenants and agrees that he will well and truly deliver or cause to be delivered at the breakwater at Plattsburgh, New York, the above bill of timber, of the size and description above mentioned, to be sound and straight; the one-half within thirty days, and the remainder within sixty days from the date of these presents.

Third. It is further understood between the aforesaid parties that the several covenants and conditions of the above contract are subject to the approval of the Topographical bureau at Washington.

Fourth. Should said party of the second part fail to deliver the above timber in manner, quality, and within the time above specified, then and in that event said party of the second part hereby authorizes said Charles M. Watson, United States agent, to retain in his possession twenty per cent. of the value of such portion of the timber aforesaid as shall have been delivered, which per cent. shall be paid on the fulfilment of the contract, or forfeited on the failure of said to perform the several conditions of this contract.

In witness whereof, the parties to these presents have set their hands and affixed their seals the day and year first above written.

CH'S M. WATSON, [SEAL.]
U. S. Agent.

GEO. PARSONS, [SEAL.]

Sealed and delivered in the presence of

LOT CHAMBERLIN.

No. 3.

A contract entered into this 10th day of August, in the year one thousand eight hundred and thirty-eight, between the United States of America, by Charles M. Watson, their agent, of the first part, and

of the second part, witnesses:

Said party of the first part, in consideration of and on the performance of the several covenants and agreements hereinafter made by said party of the second part, hereby covenants and agrees to pay said party of the second part, his heirs or assigns, on the delivery of the following described bill of timber, the sum of nine hundred dollars; that is to

say, for
Fifty sticks hemlock timber, 50 feet long, \$4.50 for each stick;
Fifty sticks hemlock timber, 48 feet long, \$4.50 for each stick;
Fifty sticks hemlock timber, 47 feet long, \$4.50 for each stick;
Fifty sticks hemlock timber, 46 feet long, \$4.50 for each stick.
All the above pieces to be sound and straight, not less than eleven inches at the small end; to be delivered at the breakwater, Plattsburgh, New York,

Account of the measurement of one hundred and five sticks of timber, also two sticks of cedar, for the breakwater, delivered by George Parsons, esq., as follows:

No.	Length, in feet.	Size, in inches.	Timber.	No.	Length, in feet.	Size, in inches.	Timber.	No.	Length, in feet.	Size, in inches.	Timber.
1	41	9	Turmeric	37	26	9	Hemlock	73	38	10	Ash.
2	26	10	Hemlock	38	40	10	do	74	31	11	do
3	36	9	do	39	31	9	do	75	31	10	do
4	31	10	do	40	26	10	do	76	50	9	do
5	27	10	do	41	42	9	do	77	41	10	do
6	31	11	do	42	23	7	do	78	41	9	do
7	36	8	do	43	31	10	do	79	48	9	do
8	36	10	do	44	26	11	do	80	46	11	do
9	31	9	do	45	30	10	do	81	50	10	do
10	26	11	do	46	30	8	do	82	41	10	do
11	27	10	do	47	27	9	do	83	46	9	do
12	27	10	do	48	31	9	do	84	51	13	do
13	27	9	do	49	30	8	do	85	41	10	do
14	31	11	do	50	32	10	do	86	41	11	do
15	35	8	do	51	31	10	do	87	50	11	do
16	31	9	do	52	31	12	do	88	41	13	do
17	35	9	do	53	31	10	do	89	43	11	do
18	36	10	do	54	36	12	do	90	50	9	do
19	31	10	do	55	31	10	do	91	40	10	do
20	36	11	do	56	31	9	do	92	39	11	do
21	30	9	do	57	27	9	do	93	41	15	do
22	38	10	do	58	31	9	do	94	50	11	do
23	30	7	do	59	31	9	do	95	44	10	do
24	40	9	do	60	36	14	Ash	96	42	10	do
25	36	10	do	61	40	9	do	97	51	9	do
26	31	10	do	62	31	11	do	98	41	10	do
27	31	10	do	63	41	10	do	99	44	10	do
28	31	8	do	64	31	11	do	100	42	10	do
29	30	8	do	65	39	13	do	101	36	12	do
30	31	10	do	66	46	12	do	102	51	11	do
31	30	8	do	67	41	11	do	103	30	9	Pine.
32	30	10	do	68	41	13	do	104	31	10	do
33	26	9	do	69	44	16	do	105	27	8	do
34	27	9	do	70	40	9	do	106	35	10	Cedar.
35	26	8	do	71	42	9	do	107	39	10	do
36	30	9	do	72	35	10	do				

PLATTSBURGH, September 10, 1839.

LEVI PLATT.

No. 4.

PLATTSBURGH, April 29, 1843.

DEAR SIR: I send you enclosed an account in favor of Judge Parsons against the United States, for timber delivered for the breakwater at Plattsburgh, in the fall of 1839, together with his affidavit of its correctness, and also Col. Watson's certificate as evidence of the justness of the account, and request that you would hand the same over to the Auditor of the Treasury for settlement. You will also see, at the bottom of Judge Parsons's affidavit, authority for paying the account to me.

The reason why this account has not been presented before, is, that Judge Parsons could not find his contract under which the timber was delivered. I sent by Col. T. A. Tomlinson an account for Judge Parsons, together with a contract dated August 16, 1838, and also Col. Watson's letter to Judge Parsons, dated December 15, 1838, in which letter he informed Judge Parsons that a contract for some timber had been drawn, and was ready to execute, &c., together with a bill of the measurement of the timber, made by Judge Platt, which papers Col. Tomlinson informs me he left at your office. In making up that account, I made a mistake in charging the short sticks at only \$3 instead of \$3 50. I did so from the fact that \$3 was the price paid for short sticks on some of the breakwater contracts, and no price being stated in Judge Parsons's contract of 16th August, 1838, nor in the letter of 15th December, 1838, for the short sticks. I have now, in order to get this matter settled, procured a certificate from Col. Watson, stating the contract and price, &c., and referring to the contract of the 15th December, 1838, on file in your office, and request that you would attach the contract to the papers herein sent you, and hand the same to the Auditor for settlement, which I hope will be done without putting Judge Parsons to the expense and delay of applying to Congress for relief.

The timber charged in this account has been used in the breakwater the past winter by Mr. Haswell, the present agent, evidence of which can be sent you if you deem it necessary to the adjustment of the account.

Please write me on the subject.

Your obedient servant,

P. J. ROBERTS.

J. J. ABERT, *Col. Corps Engineers.*

No. 5.

TREASURY DEPARTMENT,

Third Auditor's Office, June 3, 1843.

Report of the Third Auditor on the claim of George Parsons for	
36 sticks timber for breakwater at Plattsburgh, averaging 40	
feet long, at \$4 50	\$162 00
And 71 sticks less than 40 feet long, and over 36 feet long, at	
\$3 50	248 50
Per account dated September, 1839	\$410 50

On the 15th December, 1838, the claimant, George Parsons, entered into contract with Charles M. Watson, agent of the United States for the breakwater at Plattsburgh, to deliver 500 hemlock logs, 48 feet long, and 200 of 35 feet long, to be delivered on or before the first of May then next; the conditions of payment to be 20 per cent. on delivery, and the remaining 80 per cent. to be paid whenever an additional appropriation for that work should be made by Congress. It was further stipulated, that, should said Parsons fail to deliver the timber in manner, quality, and within the time specified, and the additional appropriation should be made, then the agent was to retain 20 per cent. of the value of such portion of said timber as should have been delivered, which was to be paid on the fulfilment of the

contract, on the contingency that such additional appropriation should be made, or forfeiture on the failure to perform the same.

On a settlement made by the agent, Watson, on the 10th May, 1839, with said Parsons, he granted him a certificate of the amount then due to him on white pine plank and round hemlock timber, of a balance of \$506 35, delivered for the breakwater, which certificate was paid through this office on the 15th February, 1842.

The timber for which the claimant now demands payment appears, from his account dated Sept. 1839, to have been delivered subsequent to the settlement of the 10th May, 1839. Mr. Watson, the agent, certifies it to have been delivered under the contract of 15th December, 1838, the payment for which was made conditional on a future appropriation being thereafter made by Congress. No such appropriation has since been made for that work. Previous, however, to the delivery, Mr. Watson, the agent, had been directed by the Topographical bureau not to make any more purchases; that there was no appropriation out of which payments could be made, and the department would not come under any obligations in the matter; notwithstanding which, the claimant continued to deliver timber, but which the agent refused to receive. Under all these circumstances, the question arises whether this claim can be paid until further legislation by Congress on the subject, and an appropriation made for that object, as stipulated in the contract, which is respectfully submitted for the consideration and decision of the Second Comptroller of the Treasury thereon.

PETER HAGNER, *Auditor.*

ALBION K. PARRIS, Esq.,
Second Comptroller.

—
TREASURY DEPARTMENT,
Second Comptroller's Office, June 5, 1843.

Upon the foregoing statement of facts, I am clearly of opinion that Mr. Parsons has no legal claim upon the United States for the timber charged in his account.

ALBION K. PARRIS, *Comptroller.*

—
No. 6.

TREASURY DEPARTMENT,
Third Auditor's Office, June 4, 1844.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, enclosing the petition of George Parsons, and asking for any information I can give to the Committee of Claims. In reply, I transmit to you, herewith, the report of the accounting officers of the treasury adverse to the claim of Mr. Parsons, setting forth the reasons upon which the decision of the accounting officers was predicated; also the account and affidavit, appended, of Mr. Parsons; a bill of the timber stated to have been delivered for the breakwater, with the certificate of Mr. Watson, the former agent; the contract dated 16th August, 1838; a letter from Mr. Watson,

dated December 15, 1838, to Mr. Parsons; a letter from Peter J. Roberts, dated 27th May, 1843; two letters from Col. J. J. Abert, of the Topographical bureau, dated 7th February and 8th May, 1843, transmitting the account for adjustment, and a copy of a letter from P. J. Roberts to Col. Abert, dated 29th April, 1843. These are all the papers and evidence submitted to the accounting officers, and upon which their decision is based; from which you will perceive that there is no evidence to sustain the fact set forth in the petition, of the subsequent use of the timber by the agent, Mr. Haswell, on the breakwater.

I return you, herewith, the petition, with the request that as soon as the papers are done with they be returned to this office.

Respectfully, sir, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. JOSEPH VANCE,

Chairman of the Committee of Claims, House of Reps.

PETER HAGNER, *Auditor.*

ALBION K. PARRIS, Esq.,
Second Comptroller.

UPON THE FOREGOING STATEMENT OF FACTS, I AM CLEARLY OF OPINION THAT MR. PARSONS HAS NO LEGAL CLAIM UPON THE UNITED STATES FOR THE TIMBER CHARGED IN HIS ACCOUNT.

ALBION K. PARRIS, *Comptroller.*

No. 6.

SIR: I HAVE THE HONOR TO ACKNOWLEDGE THE RECEIPT OF YOUR LETTER OF THE 3d INSTANT, ENCLOSED THE PETITION OF GEORGE PARSONS, AND ASKING FOR ANY INFORMATION I CAN GIVE TO THE COMMITTEE OF CLAIMS. IN REPLY, I TRANSMIT TO YOU, HEREWITH, THE REPORT OF THE ACCOUNTING OFFICERS OF THE TREASURY ADVERSE TO THE CLAIM OF MR. PARSONS, SETTING FORTH THE REASONS UPON WHICH THE DECISION OF THE ACCOUNTING OFFICERS WAS PRESENTED; ALSO THE ACCOUNT AND BILL DRAUGHT APPENDED OF MR. PARSONS; A BILL OF THE TIMBER STATED TO HAVE BEEN DELIVERED FOR THE BREAKWATER, WITH THE CERTIFICATE OF MR. WATSON, THE FORMER AGENT; THE CONTRACT DATED 15th AUGUST 1838; A LETTER FROM MR. WATSON;

ELISHA F. RICHARDS.

[To accompany bill H. R. No. 581.]

DECEMBER 29, 1846.

Mr. POLLOCK, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the memorial of Elisha F. Richards, of New York, report:

This claim was examined by this committee at the last session of Congress, and a bill was reported for his relief. The bill was passed by the House of Representatives, but at so late a day in the session that the Senate failed to act thereon. The bill is again reported to the House, and the former report, explaining the merits thereof, is added hereto.

MAY 4, 1846.

The Committee of Claims, to whom was referred the memorial of Elisha F. Richards, report:

The facts of the case, as sustained by the evidence, are fully set forth in the petition of the memorialist, who represents, "that in the winter of 1838, having business not far from Hickory island, in the river St. Lawrence, and being about to proceed to the place of his destination on his said business with his team, Martin Woodruff, who, by some means, had ascertained the intended journey of your petitioner, hired your petitioner to carry some men to Clayton, in the county of Jefferson, which your petitioner did, and then went to Hickory island; that your petitioner staid there four or five hours; and on leaving there for his residence in Clay, one Austin Bates hired him to bring away three barrels, and convey them to Clayton aforesaid; that said Bates rode in your petitioner's sleigh with him to Clayton, about six miles from Hickory island, and there said Bates and your petitioner went to the office of the custom-house officer, and inquired for said officer, with a view to have him clear said barrels; that said officer was not at his office, and could not be found; that your petitioner waited there about two hours, with the intention of getting said barrels cleared; and then, not being able to find said custom-house officer, said Bates and one Walter Cook, and your petitioner, took said barrels from your petitioner's sleigh, and put them in the road before the office of the

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said custom-house officer, and about a rod from it; that your petitioner then left Clayton with his sleigh and horses, and went home to his residence in Clay; that your petitioner did not examine the contents of said barrels, and does not know what they were, and has never seen said barrels since; that your petitioner, in carrying said barrels, had no intention to violate the revenue laws of the United States, and did not suppose he had done so; that he had no interest whatever in said barrels, or their contents, but was merely employed to transport them as aforesaid.

"And your petitioner further shows that soon after, and, as your petitioner now recollects, about two weeks after, Jason Fairbanks, esq., deputy marshal for said northern district, called at your petitioner's house and seized your petitioner's horses, sleigh, and harness, for an alleged violation of the revenue laws in transporting said barrels, and crossing the line without entering the horses and sleigh; that your petitioner was entirely ignorant that he had crossed the line between Canada and the State of New York until he arrived at Clayton; that he there stopped for the purpose of clearing said barrels, and said horses and sleigh, and would have done so if the custom-house officer could have been found; and when your petitioner left there, he supposed said Bates would attend to the getting said barrels, and sleigh and horses, cleared.

"And your petitioner further shows, that said Fairbanks took away said horses and sleigh; and afterwards, in the course of the next week, your petitioner went to the residence of said Fairbanks, at Watertown, and gave him a receipt for said horses, sleigh, and harness, to be returned when called for; and your petitioner procured one Isaiah Williams to sign said receipt with him, as his surety, and your petitioner then took his sleigh, horses, and harness home with him. That your petitioner afterwards, in June, 1838, ascertained that said Fairbanks had advertised his (your petitioner's) said horses, sleigh, and harness, to be sold at some place in Jefferson county some time in July, 1838; that your petitioner saw said Fairbanks at Albany in June, 1838, and requested him to postpone the said sale, as your petitioner would not be able to return home and take said horses, sleigh, and harness to the place of sale by the time at which they were advertised to be sold; that on the 2d day of July, 1838 the said Fairbanks wrote your petitioner a letter, stating that he would, agreeably to your petitioner's request, put the sale on the 20th August, 1838, at 10 o'clock, a. m., at Sackett's Harbor; that your petitioner, in due season, received said letter, and, in pursuance thereof, had said horses, sleigh, and harness at Sackett's Harbor on the morning of the 20th of August, 1838, both before and at 10 o'clock; that your petitioner took said property there in order to comply with the terms of said receipt, and the said letter of said Fairbanks; that he inquired for and looked for said Fairbanks in all the public places in the village of Sackett's Harbor, but could not find him, and was informed that he had gone a journey into some of the western States; that your petitioner also made every effort in his power to find some officer who had authority to receive said horses and conduct said sale, but was entirely unable to find any such officer, or that there was one there; that your petitioner continued at Sackett's Harbor, making such efforts, from a little before 10 in the morning until after 4 o'clock in the afternoon, and then returned home; that subsequently, and, as your petitioner thinks, in September, 1838, having heard that said Fairbanks had returned home, your petitioner went to Watertown, and requested the said

Fairbanks to advertise said horses, sleigh, and harness again, and that your petitioner would have them at the day and place he should appoint for the sale, but he declined to do so.

"And your petitioner further shows, that some time in the spring of the year 1839 a suit was commenced against him in the district court of the United States for the northern district of New York, in the name of the United States of America, upon said receipt, and a judgment obtained in said suit against your petitioner, and an execution was thereon issued for \$335 18, which your petitioner paid to the United States deputy marshal on the 31st day of January, 1842; that your petitioner employed an attorney to defend said suit, but never heard any thing in regard to it after the service of the writ, in the spring of 1839, until the said deputy marshal came with the execution.

"And your petitioner further shows, that if he has committed any error in the transactions above alluded to, it has been done through ignorance, and not intentionally; that your petitioner is a poor man, and quite unable to sustain the loss he is subjected to, by means of the said judgment and execution, and prays that the same may be mitigated or remitted, and that your petitioner may be restored the money he has paid as aforesaid, or such part thereof as shall be deemed just and proper."

It appears from the evidence, that the petitioner, whilst he denied all intention to violate the revenue laws of the United States, on all occasions anxiously endeavored to comply with the conditions of his receipt or bond, by offering to deliver to the proper officer, and at the proper time and place, the property that had been seized by the deputy marshal of the United States for the alleged violation of the revenue laws, but was prevented from so doing by the act of the officer himself, or his absence from the place where the property was to be delivered. Such being the fact, no principle of law or equity would require him to do more to save the condition of his bond. Having attempted, and being always prepared, to do all in good faith that he was bound to do, he should not have been compelled at a subsequent period, by a suit at law upon his bond, to pay an amount in value greater than the value of the property offered to be delivered in compliance with the condition of his receipt. The amount of the judgment recovered against the petitioner, and paid by him, was \$335 18, which is, in the opinion of the committee, a larger amount than the actual value of the property seized. The committee have no means in their power by which to determine the difference between the amount of the judgment and the value of the property at the time of the seizure, or at the time the petitioner offered to surrender it to the proper officer. This difference, under all the circumstances of the case, your committee are of opinion ought to be refunded to the petitioner. The whole case is one of extreme hardship, there being evidently no intention on the part of the petitioner to violate any of the laws of the United States; and, in the language of Judge Conkling, (the judge before whom the cause was tried,) "the various prosecutions against him were marked by more than legal severity." The petitioner appears to have been utterly ignorant of his rights; and, as the judge already referred to remarks, "he seemed to be an extremely ignorant and blundering, not to say stupid man." The committee do not propose to report a bill for his relief in any certain or definite amount, but to report a bill referring the whole case to the Third Auditor of the Treasury, to ascertain the difference in value, at the time of

seizure, between the property seized by the marshal, and the amount of the judgment subsequently recovered and paid by the petitioner; and the difference, if any, thus ascertained, to be paid to the memorialist. They herewith report a bill accordingly, and recommend its passage by the House.

TREASURY DEPARTMENT, *March 6, 1844.*

SIR: In reference to the case presented in the petition of E. F. Richards, and accompanying papers, transmitted with your letter of the 4th instant, I have the honor to state, that the property referred to having been seized, condemned, and sold, under the revenue laws, and the proceeds of sale distributed according to law, the money has passed from the control of the department, and it possesses no power to afford any relief in the case.

In regard to your request that I should express my views as to the propriety of affording the relief asked for by the petitioner, I would respectfully observe that the department has no information respecting the merits of the case, other than what is given by the papers; and as it is a matter in which Congress can judge as well as the department, I must decline expressing any views on the subject.

The papers are herewith returned, as desired.

I have the honor to be, very respectfully, your obedient servant,
J. C. SPENCER,
Secretary of the Treasury.

Hon. HORACE WHEATON,
House of Representatives, Congress.

AUBURN, December 22, 1843.

DEAR SIR: In accordance with the request contained in your letter of yesterday, I remit to you E. F. Richards's papers. Although you do not request me to express any opinion relative to the merits of the application which you say is in contemplation to Congress in his behalf, I am impelled by a sense of justice to remark, (without intending, however, to cast censure on the ministerial officers of the United States,) that the various prosecutions against him were marked by more than legal severity. It appeared to me while they were going on, and my opinion now is, that they may be properly characterized as unjust and oppressive. He seemed to me to be an extremely ignorant and blundering, not to say stupid man. If he was morally guilty at all, (which is, at least, doubtful,) he was the least so, I have no doubt, of all those who were punished for their participation in the frontier outrages, while hundreds escaped altogether who were a thousand fold more guilty. I need scarcely add that I hope his application for relief may be successful, and that I have no objection to your making any use of this letter which you may suppose likely to be beneficial to your client.

Believe me, dear sir, with great regard, &c. &c.,

B. DAVIS NOXON, Esq.

OFFICE OF THE U. S. ATTORNEY,
Utica, January 13, 1844.

Before my appointment the property of Richards had been condemned by default, and a suit instituted upon a receipt which had been given to Jason Fairbanks, esq., deputy marshal. This suit was tried by me at a district court of the United States, in Utica, in July, 1841, and a recovery was had for the value of the property. According to my recollection, Mr. Richards was not present at the trial, and his counsel was unable to account for his absence. Of the merits of Mr. Richards's case I have little knowledge; but from affidavits which I have seen, I am satisfied that his petition, sworn to before Judge Conkling on the 15th December, 1843, is substantially true. The judgment has been paid, and the money distributed.

J. A. SPENCER, *U. S. Attorney.*

Office of the U. S. Attorney,
New York, January 13, 1844.

Before my appointment the property of Richards had been condemned by default, and a writ instituted upon a receipt which had been given to Jason Fairbanks, esq., deputy marshal. This suit was tried by me at a district court of the United States, in New York, in July, 1841, and a recovery was had for the value of the property. According to my recollection, Mr. Richards was not present at the trial, and the counsel was unable to account for his absence. Of the merits of Mr. Richards' case I have little knowledge, but from affidavits which I have seen, I am satisfied that his petition, sworn to before Judge Campbell on the 15th December, 1843, is substantially correct. The judgment has been paid, and the money distributed.

Very respectfully,
J. A. SPENCER, U. S. Attorney.

WILLIAM CULVER.

[To accompany bill H. R. No. 695.]

JANUARY 11, 1847.

Mr. J. A. ROCKWELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of William Culver, report:

This Committee made a favorable report upon this case, accompanying a bill, at the first session of the present Congress. It passed the House, but failed in the Senate from want of time to take action upon it. A copy of the bill, as passed by the House, is again reported, and its passage recommenced.

JANUARY 8, 1846.

The Committee of Claims, to whom was referred the petition of William Culver, have considered the subject referred to them, and make the following report:

On the 8th October, 1833, the petitioner, William Culver, together with John B. Lyman, whose interest in the contract was subsequently assigned to said Culver, entered into a contract with the authorized officers of the United States for the erection of the foundation walls of a custom-house at New London, in the State of Connecticut, for the sum of seventeen hundred and thirteen dollars, according to certain plans and specifications furnished by the architect. And on the 25th day of August, A. D. 1834, the said William Culver executed with Ingoldesby W. Crawford, the collector of the port of New London, acting on behalf of the government of the United States, another contract for the erection of the said custom-house on the foundations previously contracted for, for the sum of thirteen hundred and fifty dollars, in accordance with certain plans and specifications furnished by the engineer and architect of the United States, Robert Mills of the city of Washington.

Prior to the execution of the second contract, the engineer and architect made an estimate for the erection of the building structure, which was for a sum three thousand dollars more than the price for which the contract was subsequently made by said Culver; and this sum, so estimated by the architect, was less than any proposal made for the work.

WILLIAM CULVER.

[To accompany bill H. R. No. 598.]

JANUARY 11, 1847.

Mr. J. A. ROCKWELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of William Culver, report:

This committee made a favorable report upon this case, accompanied by a bill, at the first session of the present Congress. It passed the House, but failed in the Senate from want of time to take action upon it. A copy of the bill, as passed by the House, is again reported, and its passage recommended.

JANUARY 8, 1846.

The Committee of Claims, to whom was referred the petition of William Culver, have considered the subject referred to them, and make the following report:

On the 8th October, 1833, the petitioner, William Culver, together with John B. Lyman, whose interest in the contract was subsequently assigned to said Culver, entered into a contract with the authorized officers of the United States for the erection of the foundation walls of a custom-house at New London, in the State of Connecticut, for the sum of seventeen hundred and thirteen dollars, according to certain plans and specifications furnished by the architect. And on the 25th day of August, A. D. 1834, the said William Culver executed with Ingoldsby W. Crawford, the collector of the port of New London, acting on behalf of the government of the United States, another contract for the erection of the said custom-house on the foundations previously contracted for, for the sum of thirteen thousand one hundred and fifty dollars, in accordance with certain plans and specifications furnished by the engineer, and architect of the United States, Robert Mills, of the city of Washington.

Prior to the execution of the second contract, the architect aforesaid made his estimate for the erection of the building aforesaid, which was for a sum three thousand dollars more than the price for which the contract was subsequently made by said Culver; and this sum, so estimated by the architect, was less than any proposal made for the work.

In a communication to this committee, at a former session, Mr. Mills, the architect, states as follows: "With regard to the superstructure of the custom-house at New London, I would state a few particulars. When I went on to make the contract for the foundation, the department required that proposals should be received for erecting the superstructure and finishing the building; and though the proposals went all beyond my estimates, I was satisfied that the building could be completed within my estimates, and I therefore reported the amount they called for, which was sent on by the department to the Committee of Ways and Means, and reported by them to the House. When the appropriation bill was under consideration in Committee of the Whole, some gentleman of the committee then moved a reduction on all the sums reported for custom-houses, (except one;) namely, for New London custom-house *nine* instead of *twelve* thousand dollars. Owing to the casual absence of the chairman of the committee, and other causes, the original sum of \$12,000, in relation to this custom-house, was not restored.

"This state of things occurring, the department required that the contract for the erection of these buildings should not exceed the appropriations, and this compelled the contractor to come down with his proposals, to meet this necessity. I was satisfied that the work of this building was considerably undervalued, and that if the contractor executed the same faithfully, he would be a loser by the job." "I knew that if he built this custom-house according to the plans laid down, it would cost what I had estimated it at. That he has done so, I have had every assurance; and should the committee be satisfied with the evidence of Mr. Culver's statement of accounts, &c., I believe the government would be a gainer in allowing Mr. Culver a full compensation for his labor."

The testimony of the collector of the port, who made the contract on behalf of the government, fully sustains the statements of the architect. Also, that the work was done throughout in the most faithful and thorough manner, and that he himself encouraged and urged the contractor to prosecute his work, although he was losing money by the contract, and to rely upon the aid of the government and an application to Congress for relief. The testimony of other officers of the government, and respectable citizens at New London, is to the same effect. In addition to this, the petitioner has procured and filed a minute statement of the actual cost of the work, showing that he has sustained a heavy loss by the fulfilment of his contract.

Under these circumstances, the committee felt strongly inclined to recommend the payment to the contractor for the actual value of the work done by him, as proved abundantly before the committee, provided the amount should not exceed the amount of the estimates by the architect of the actual cost of such a work; and they were the more induced so to do from the fact stated by the architect, that, "previous to the erection of this building, there was not a real fire-proof building to be found in New England. The contractor had no precedent to guide him in rating his work. I was to be judge in this respect, and I knew that if he built the custom-house according to the plans laid down it would cost what I had estimated it at." The committee are, however, satisfied, that although this is a case of very great hardship, they cannot, without establishing a dangerous precedent, recommend the allowance of this portion of the claim of the petitioner. There is no reason why the government should be placed in a worse condition, or

be governed by a different rule, in the interpretation or enforcement of contracts, from that between individuals. It is not just that the United States, if a contract prove disadvantageous to the other party, should supply the loss; and if the contract should prove profitable, that the contractor should be the gainer. The same rule of equal justice should be applied when the government is a party as between individuals, and the same, and no other rules of law and equity, should be applied as between private individuals in all matters of contract.

There is, however, another portion of the claim of the petitioner which affords sufficient ground for relief. It appears, from the report of the architect and other testimony, that "the nature of the ground, being in part artificial, could not be satisfactorily ascertained, and therefore he had to assume a certain average of depth for the walls, which turned out, on the execution of the work, erroneous." This involved a considerable expenditure by the contractor, aside from and beyond his contract with the government, and for which, as *extra* work, as between individuals, an action could be sustained at law.

It became necessary, also, in the prosecution of the work, owing to this and other causes, to use stones of a larger dimension, to construct some of the masonry in a more substantial and solid manner, and to use a larger amount of iron bars in the fastening and connecting the stone work than was provided for in the contract. For this he is plainly entitled to relief, according to the principles uniformly adopted by this committee, and sanctioned by Congress, and according to the well settled principles of courts of law. The committee, therefore, to this extent recommend the relief of the petitioner, and the passage of the accompanying bill.

being governed by a different rule, in the interpretation or enforcement of contracts, from that between individuals. It is not just that the United States, if a contract prove disadvantageous to the other party, should supply the loss; and if the contract should prove profitable, that the contractor should be the gainer. The same rule of equal justice should be applied when the government is a party as between individuals, and the same, and no other rules of law and equity should be applied as between private individuals in all matters of contract.

There is, however, another portion of the claim of the petitioner which affords sufficient ground for relief. It appears from the report of the architect and other testimony, that "the nature of the ground, being in part artificial, could not be satisfactorily ascertained, and therefore he had to assume a certain average of depth for the walls, which turned out, on the execution of the work, erroneous." This involved a considerable expenditure by the contractor, aside from and beyond his contract with the government, and for which, as extra work, as between individuals, an action could be maintained at law.

It became necessary, also, in the prosecution of the work, owing to this and other causes, to hasten on a larger dimension, to construct some of the masonry in a more substantial and solid manner, and to use a larger amount of iron bars in the framing and connecting the stone walls than was provided for in the contract. For this he is plainly entitled to relief, according to the principles uniformly adopted by this committee, and sanctioned by Congress, and according to the well-settled principles of equity of law. The committee therefore, to the extent recommended the relief of the petitioner, and the passage of the accompanying bill.

and no further relief is recommended. The committee also recommends that the bill be passed.

The committee also recommends that the bill be passed.

NANCY MARTIN.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred, the petition of Nancy Martin, report:

The petitioner states that she is the child of Hannah Martin, who was the widow of Jirah Martin, and a revolutionary pensioner. The widow, after the death of the husband, received a pension up to the time of her death. The petitioner prays to be allowed a pension from the 4th March, 1836, to the 4th March, 1841, in the right of her mother, during a portion of which time her father drew a pension. The committee annex a letter from the Commissioner of Pensions as a part of their report, in which they entirely concur, and recommend the adoption of the following resolution:

Resolved, That the petitioner is not entitled to relief.

PENSION OFFICE, May 2, 1846.

SIR: I have the honor to return you the petition of Nancy Martin, who prays to be allowed a pension from 4th March, 1836, to 4th March, 1841, of \$63 per annum, in the right of her deceased mother, Hannah Martin. Her father, Jirah Martin, drew a pension from the 4th March, 1831, to 17th February, 1843, and her mother drew one from 3d March, 1843, to 17th September, 1843, when she died.

The joint resolution of 16th August, 1842, was construed to give to widows embraced by the provisions of act of 7th July, 1838, five years' pension from 4th March, 1836, to 4th March, 1841, irrespective of any pension the husband may have received within that period. While the claim of Hannah Martin, deceased, was pending, the act of 30th April, 1844, was passed, inhibiting a "pension to the widow for the same time her husband received one;" consequently, when her proofs were completed, after the passage of that law, the claim was not allowed for any part of the time during which her husband was pensioned.

The object of the petitioner (whose class, it should be remarked, has not been recognised by any act of Congress as a suitable object of the public bounty) is to obtain, now that the father and mother, the selected

objects of the pension laws, are dead, a pension in right of the mother for five years of the mother's coverture, in which the father regularly received one.

The considerations which should dispose of such applications address themselves exclusively to Congress.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

To the honorable the Senate and House of Representatives in Congress assembled:

Nancy Martin, of Landaff, in the county of Grafton and State of New Hampshire, single woman, respectfully represents: That her father, Jirah Martin, was a soldier of the revolution, having served two campaigns, besides other short periods, in the army of the Revolution. That he was poor, and for several of his last years he was made comfortable by a pension under the act of June, 1832. He died on the 17th day of February, A. D. 1843, and left my mother, Hannah Martin, his widow, who, by the act of July 7, 1838, was entitled to a pension of five years from the 4th of March, 1836, to the 4th of March, 1841, on making a proper application to the Pension Office. This she did in the spring of 1843; and was required to get proof from the secretary of state in Massachusetts of his services in the line of that State. She was poor, and it cost her over ten dollars to obtain those records. She forwarded these, and then expected her pension every week to her death, September 17, 1843, and although they had examined the case and found her entitled to a pension, as expressed in their letter to her agent, yet it was suffered to lie in the Pension Office undisposed of until after April, 1844, and then refused, except from March 4, 1843, to September 17, 1843. Your petitioner was poor, also; but she expended all she had in the last sickness of her aged mother, and was to have this pension to remunerate her. Her mother, on her death bed, willed it to her, and she, in the faith that it was a legal claim her mother had by the law of July 7, 1838, on the government, accepted the trust of executrix to her estate, and the issue makes her poor indeed; and having expended all her means to make her mother's death bed comfortable, on the faith of the act of Congress, she submits the case, and asks the same rule of interpretation to the act of April, 1844, in her case, as in all others, that she may have this five years' pension that was vested in her mother at her death.

NANCY MARTIN.

While the claim of Hannah Martin, deceased, was pending, the act of 30th April, 1844, was passed, inhibiting a "pension to the widow for the same time her husband received one;" consequently, when her proofs were completed, after the passage of that law, the claim was not allowed for any part of the time during which her husband was pensioned. The object of the petitioner (whose class, it should be remarked, has not been recognised by any act of Congress as a suitable object of the public bounty) is to obtain, now that the father and mother, the selected

ALANSON BILLS.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Alanson Bills for a pension, report :

That the petitioner asserts several tours of service in the Indian war during the years 1791, 1792, 1793, 1794, and 1795. The petition is not sustained by proper evidence, and was rejected by this committee in 1844. The committee report adverse to the prayer of the petitioner, and recommend the adoption of the following resolution :

Resolved, That the petitioner is not entitled to relief.

Ritchie & Heiss, print.

JESSE ROBERTS.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Jesse Roberts for an increase of pension, report:

That the petitioner is now on the revolutionary pension roll under the act of the 7th June, 1832, at the rate of sixty-eight dollars per annum. He prays an increase of his pension, but offers no additional evidence in support of his petition. The committee report adverse to his petition, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Wm. A. Hays, printer.

LYDDAL ESTES.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Lyddal Estes for a pension, report :

That the petitioner asserts several tours of service in the army during the Revolution, and prays Congress to grant him a pension in consideration of those services. His petition has been rejected by the Commissioner of Pensions. He sets forth in his declaration that he knows of no one now living, whose testimony he can procure, who can testify to his service, and that he has no documentary evidence to offer, but relies entirely upon his own affidavit to support his claim. The committee cannot for a moment entertain a claim supported by such testimony, and report adverse to his petition, and recommend the adoption of the following resolution :

Resolved, That the petitioner is not entitled to relief.

Ritchie & Heiss, print.

Printed Office, May 2, 1846.

LYDDAL ESTES.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Lyddal Estes for a pension, report:

That the petitioner asserts several tours of service in the army during the Revolution, and prays Congress to grant him a pension in consideration of those services. His petition has been rejected by the Commissioner of Pensions. He sets forth in his declaration that he knows of no one now living, whose testimony he can procure, who can testify to his service, and that he has no documentary evidence to offer, but relies entirely upon his own affidavit to support his claim. The committee cannot for a moment entertain a claim supported by such testimony, and report adverse to his petition, and recommend the adoption of the following resolution: Resolved, That the petitioner is not entitled to relief.

Richie & Hays, print.

MAGDALENA MOORE.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Magdalena Moore for a pension, report :

The petitioner represents that she is the widow of Benjamin Moore, who was a soldier of the Revolution, and prays for a pension in consideration of the services of her said husband. The committee have referred her petition and the accompanying papers to the Commissioner of Pensions, and adopt his reply as a part of their report. The committee concur with the Commissioner in his decision, and recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, May 2, 1846.

SIR : I have the honor to enclose you the papers in the case of Magdalena Moore, and to inform you that her claim has not been allowed ; first, because she has not, according to the rules of this department, made six months' military service of her husband ; and, secondly, because her parol proof does not establish, with the requisite certainty, the *date* of her marriage before January, 1794. The Pennsylvania militia terms were limited to two months, and consequently the term of six months, which she asserts upon tradition and information, has been resisted as inconsistent with the course of that service.

The service in the flying camp, if really rendered, should be verified by the records at Harrisburg. The granting a pension by the legislature of a State is an act of bounty, construed by no rules ; but the pension asserted in this office is a *pro rata* stipend, to be definitely adjusted by the data which the proof filed may afford.

No satisfactory data are furnished in this case, for the ascertainment of the amount of service rendered by her husband, by which her pension, if allowed, is to be computed.

The *ex parte* parol testimony does not disclose the means by which a knowledge of the date of a distant and common occurrence has been re-

Ruchie & Heiss, print.

tained or recovered, and which a cross examination of the witnesses in a court would draw out.

If the facts set forth were duly sustained, her claim would be allowed under the act of 7th July, 1838, and its supplements of 3d March, 1843, and 17th June, 1844.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,

House of Representatives.

Mr. Seaman, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Magdalen Moore for a pension, report:

The petitioner represents that she is the widow of Benjamin Moore, who was a soldier of the Revolution, and prays for a pension in consideration of the services of her said husband. The committee have referred her petition and the accompanying papers to the Commissioner of Pensions, and adopt his reply as a part of their report. The committee concur with the Commissioner in his decision, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Pension Office, May 2, 1846.

Sir: I have the honor to enclose you the papers in the case of Magdalen Moore, and to inform you that her claim has not been allowed; first, because she has not, according to the rules of this department, made six months' military service of her husband; and, secondly, because her proof does not establish, with the requisite certainty, the date of her marriage before January, 1794. The Pennsylvania militia terms were limited to two months, and consequently the term of six months, which she asserts upon tradition and information, has been resisted as inconsistent with the course of that service.

The service in the flying camp, if really rendered, should be verified by the records at Harrisburg. The granting a pension by the legislature of a State is an act of bounty, controlled by no rules; but the pension asserted in this office is a *vetæ stipendii*, to be definitely ascertained by the data which the proof filed may afford.

No satisfactory data are furnished in this case for the ascertainment of the amount of service rendered by her husband, by which her pension, if allowed, is to be computed.

The ex parte parol testimony does not disclose the means by which a knowledge of the date of a distant and common occurrence has been re-

Magdalen Moore's petition.

ROBERT DAVID PUGH. HEIRS OF.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of David Pugh, administrator of Hannah Watkins, deceased, report:

The petitioner represents himself to be the administrator of Hannah Watkins, and prays that the pension which was due her as the widow of Robert Watkins, who was a pensioner of the United States at the time of his death, in 1833, may be paid to the children of the said Hannah.

The committee have referred the petition to the Commissioner of Pensions, and adopt his decision as a part of their report. It is as follows:

PENSION OFFICE, May 4, 1846.

SIR: I have the honor to return you the memorial of the administrator of Hannah Watkins, (praying that the *children* may be allowed the pension which might have been allowed their mother from 4th March, 1836, to the day of her death, in 1839, if the resolution of 16th August, 1843, had been in operation when she died,) and to remark that children are not, in their own right, beneficial objects of the pension laws, although they may, under certain circumstances, become the recipients of arrears of pensions due a deceased parent at his or her death. As the law stood in 1839, a widow whose husband had received or was entitled to a pension under the act of 7th of June, 1832, could not be allowed a pension under the act of 7th July, 1838; that limitation was removed by the joint resolution of 16th August, 1842, more than three years after claimant's death.

Her husband was allowed a pension of \$46 66 per annum, from 4th of March, 1831, to 7th day of October, 1832, which was paid to the widow.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

The committee are not disposed to extend the provisions of any of the existing pension laws to this class of cases; and, adopting the views of Mr. Edwards in the above communication, recommend the adoption of the following resolution:

Resolved, That the petitioner is not entitled to relief.

Ritchie & Heiss, printers.

DAVID PUGH.

JANUARY 9, 1847.

House of Representatives.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of David Pugh, administrator of Hannah Watkins, deceased, report:

The petitioner represents himself to be the administrator of Hannah Watkins, and prays that the pension which was due her as the widow of Robert Watkins, who was a pensioner of the United States at the time of his death, in 1833, may be paid to the children of the said Hannah. The committee have referred the petition to the Commissioner of Pensions, and adopt his decision as a part of their report. It is as follows:

Pension Office, May 4, 1846.

Sir: I have the honor to return you the memorial of the administrator of Hannah Watkins, (praying that the children may be allowed the pension which might have been allowed their mother from 4th March, 1836, to the day of her death, in 1839, if the resolution of 16th August, 1843, had been in operation when she died,) and to remark that children are not, in their own right, beneficial objects of the pension laws, although they may, under certain circumstances, become the recipients of arrears of pensions due a deceased parent at his or her death. As the law stood in 1839, a widow whose husband had received or was entitled to a pension under the act of 7th of June, 1832, could not be allowed a pension under the act of 7th July, 1838; that limitation was removed by the joint resolution of 16th August, 1842, more than three years after claimant's death. Her husband was allowed a pension of \$40 00 per annum, from 4th of March, 1831, to 7th day of October, 1832, which was paid to the widow. I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

The committee are not disposed to extend the provisions of any of the existing pension laws to this class of cases; and, adopting the views of Mr. Edwards in the above communication, recommend the adoption of the following resolution:

Resolved, That the petitioner is not entitled to relief.

Richie & Heiss, printers.

ROBERT ALLISON—HEIRS OF.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of the children and heirs of Robert Allison, deceased, report :

That the petitioners represent themselves to be the children of Robert Allison, deceased, who was a pensioner of the United States under the act of the 18th March, 1818, at \$240 per annum, the pay of a lieutenant ; that he died on the 24th April, 1836. They claim that while he held the rank of lieutenant he performed the duties of adjutant.

They now ask that the benefit of the act of the 7th June, 1832, which provides for additional allowance to adjutants, may be extended to them for the service which their father rendered in that grade.

The committee recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioners ought not to be granted.

Ritchie & Heiss, print.

Sir: I have the honor to return you the petition of John Stout. He made a declaration in 1844, and asserted that he was draughted in September, 1783, (after the war,) and proceeded to Newtown, in Bucks county, where he served three months; and subsequently was held in readiness for three months more under Captain Deacon and Colonel McGaw. His declaration showed an utter ignorance of the service, besides showing less than six months' actual service.

He now says he was in company with Jacob Pflanzel. By reference to his papers it appears that he was not in service after 1778, and was in the militia regiment of Colonel Moore, which was at no time stationed in Bucks county three months, or two months, which was the limit of the tour of the Pennsylvania militia.

In his petition he dates his service in 1781, and in the narrative speaks of the rumored attack of the British upon New York, (which they had occupied from August, 1776,) and the retreat of the army to winter quarters in Philadelphia, when no force of the army had appeared since 1777. His claim, as set forth, is not only unsupported by evidence, but is not consistent with historical facts, in relation to which a participant in the military service of that period could not have been mistaken.

I have the honor to be, sir, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

ROBERT ALLISON—HEIRS OF.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of the children and heirs of Robert Allison, deceased, report:

That the petitioners represent themselves to be the children of Robert Allison, deceased, who was a pensioner of the United States under the act of the 18th March, 1818, at \$240 per annum, the pay of a lieutenant; that he died on the 24th April, 1836. They claim that while he held the rank of lieutenant he performed the duties of adjutant. They now ask that the benefit of the act of the 7th June, 1832, which provides for additional allowance to adjutants, may be extended to them for the service, which their father rendered in that grade. The committee recommend the adoption of the following resolution: Resolved, That the prayer of the petitioners ought not to be granted.

Richie & Hicks, print.

JOHN STOUT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of John Stout, report :

That the petitioner prays Congress to grant him a pension for military services during the war of the Revolution. The committee adopt the annexed letter from the Commissioner of Pensions as their report, and recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, May 5, 1846.

SIR: I have the honor to return you the petition of John Stout.

He made a declaration in 1843, and asserted that he was draughted in September, 1783, (after the war,) and proceeded to Newtown, in Bucks county, where he served three months; and subsequently was held in readiness for three months more under Captain Duncan and Colonel McGow. His declaration showed an utter ignorance of the service, besides showing less than six months' actual service.

He now says he was in company with Jacob Foulkrod. By reference to his papers it appears that he was not in service after 1778, and was in the militia regiment of Colonel Moore, which was at no time stationed in Bucks county three months, or two months, which was the limit of the tour of the Pennsylvania militia.

In his petition he dates his service in 1781, and in his narrative speaks of the rumored attack of the British upon New York, (which they had occupied from August, 1776,) and the return of the enemy to winter quarters in Philadelphia, when no force of the enemy had appeared since 1777. His claim, as set forth, is not only unsupported by evidence, but is not consistent with historical facts, in relation to which a participant in the military service of that period could not have been mistaken.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

JOHN STOUT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of John Stout, report:

That the petitioner prays Congress to grant him a pension for military services during the war of the Revolution. The committee adopt the annexed letter from the Commissioner of Pensions as their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Pension Office, May 5, 1846.

Sir: I have the honor to return you the petition of John Stout. He made a declaration in 1843, and asserted that he was dwaghted in September, 1783, (after the war), and proceeded to Newtown, in Bucks county, where he served three months; and subsequently was held in readiness for three months more under Captain Duncan and Colonel McGow. His declaration showed an utter ignorance of the service, besides showing less than six months' actual service.

He now says he was in company with Jacob Foulkrod. By reference to his papers it appears that he was not in service after 1778, and was in the militia regiment of Colonel Moore, which was at no time stationed in Bucks county three months, or two months, which was the limit of the four of the Pennsylvania militia.

In his petition he dates his service in 1781, and in his narrative speaks of the rumored attack of the British upon New York, (which they had occupied from August, 1776,) and the return of the enemy to winter quarters in Philadelphia, when no force of the enemy had appeared since 1777. His claim, as set forth, is not only unsupported by evidence, but is not consistent with historical facts, in relation to which a participant in the military service of that period could not have been mistaken.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

SOPHIA ALBRECHT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Sophia Albrecht, report :

The petitioner represents that she is the widow of Martin Albrecht, who was a soldier in the war of the Revolution, and prays Congress to allow her a pension in consideration of the services of her deceased husband.

The evidence offered does not show that her husband performed six months' service. It is alleged that he performed two tours of service, the duration of which is not stated. Admitting the first tour to have been two months, which was the term of the militia tours in Pennsylvania, the second, being less than four months, is not sufficient to bring her claim within the provision of the pension laws. As Congress has refused so to modify those laws as to allow pensions to revolutionary soldiers who served for a shorter term than six months, the committee recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

Ritchie & Heiss, print.

SOPHIA ALBRECHT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Sophia Albrecht, report:

The petitioner represents that she is the widow of Martin Albrecht, who was a soldier in the war of the Revolution, and prays Congress to allow her a pension in consideration of the services of her deceased husband. The evidence offered does not show that her husband performed six months' service. It is alleged that he performed two tours of service, the duration of which is not stated. Admitting the first tour to have been two months, which was the term of the militia tours in Pennsylvania, the second, being less than four months, is not sufficient to bring her claim within the provision of the pension laws. As Congress has refused so to modify those laws as to allow pensions to revolutionary soldiers who served for a shorter term than six months, the committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Printed by H. B. Smith.

MARY HICKS.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Mary Hicks, report :

The petitioner is the widow of William Hicks, who was a soldier of the Revolution, and a pensioner of the United States. After the death of her husband the petitioner was allowed a pension of \$86 per annum, under the act of 7th July, 1838, which limited the pension to the 4th of March, 1841. After the enactment of the acts of 3d March, 1843, and 17th June, 1844, her pension was renewed, to commence on the 4th March, 1843. She now petitions Congress to allow her a pension for the time which elapsed between the expiration of her pension, under the act of the 7th July, 1838, and the commencement of it under the acts above stated.

As Congress has refused to pass a general law affording relief to this class of pensioners, the committee are not disposed to report in favor of individual cases, and therefore recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

Ritchie & Heiss, print.

J. L. EDWARDS.

Hon. H. J. SEAMAN,

Committee on Rev. Pensions, House of Reps.

Pension Office, April 11, 1844.

Sir : In the case of James Green I make the following report :

In January, 1838, he was placed on the pension roll under the act of 1832, upon the evidence contained in the enclosed papers, marked from 1

State & Rel. print.

MARY HICKS.

JANUARY 20, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Mary Hicks, report:

The petitioner is the widow of William Hicks, who was a soldier of the Revolution, and a pensioner of the United States. After the death of her husband the petitioner was allowed a pension of \$36 per annum, under the act of 7th July, 1838, which limited the pension to the 4th of March, 1841. After the enactment of the acts of 3d March, 1843, and 17th June, 1844, her pension was renewed, to commence on the 4th March, 1843. She now petitions Congress to allow her a pension for the time which elapsed between the expiration of her pension, under the act of the 7th July, 1838, and the commencement of it under the acts above stated. As Congress has refused to pass a general law affording relief to this class of pensioners, the committee are not disposed to report in favor of individual cases, and therefore recommend the adoption of the following

resolution: Resolved, That the prayer of the petitioner ought not to be granted.

Kitchie & Hays, print.

JAMES GREEN.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of James Green, report:

That the petitioner was placed on the pension roll in January, 1838, under the act of 1832. In 1840 his pension was discontinued by the Commissioner of Pensions. He now prays Congress to restore him his pension which was suspended as stated.

The committee have referred the petition to the Commissioner of Pensions, and requested him to state why the petitioner's name was struck from the pension roll. The committee adopt his reply as a part of this report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, *December 22, 1846.*

SIR: The papers which you deposited with me in the case of James Green are herewith returned.

On the 11th of April, 1844, I made a report to the Secretary of War in this case. A copy of that report is now enclosed. Since that time no new evidence has been presented at this office in support of the claim. The Secretary of War concurred with me in the opinion that Green was not entitled to the pension he claimed. It is not in my power to furnish a more perfect statement of the case, as the papers in support of the claim were sent to the House of Representatives on the 23d of December, 1844, under a resolution of that body, and they have not since been in this office.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. H. J. SEAMAN,

Committee on Rev. Pensions, House of Reps.

PENSION OFFICE, *April 11, 1844.*

SIR: In the case of James Green I make the following report:

In January, 1838, he was placed on the pension roll under the act of 1832, upon the evidence contained in the enclosed papers, marked from 1

Richie & Heiss, printers.

to 5 in red ink. In 1840 payment of his pension was stopped, upon evidence communicated to this office in confidence. I have been informed by a gentleman, in whose statements I place great reliance, that Green was never known by any other christian name than that of George in the neighborhood where he resides until after the pension law of 1832. All the papers lodged here to show that he is not the same man who performed the service set forth in the declaration are numbered from 6 to 10 inclusive; and the papers numbered from 11 to 20 inclusive are filed for the purpose of rebutting the charge against Green. I have written to persons who have corresponded with the office on the subject, and who unhesitatingly give it as their opinion that he was never in the service; but they are unwilling to have affidavits taken, because by so doing they would incur the ill will of certain persons in their neighborhood; and they apprehend evil consequences from their resentment, if they should be further exasperated.

The letter of the Hon. S. Chilton is herewith transmitted.

I respectfully ask for a return of the papers in this case.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. WILLIAM WILKINS,
Secretary of War.

Pension Office, December 22, 1846.
Sir: The papers which you deposited with me in the case of James Green are herewith returned.
On the 11th of April, 1844, I made a report to the Secretary of War in this case. A copy of that report is now enclosed. Since that time no new evidence has been presented at this office in support of the claim. The Secretary of War concurred with me in the opinion that Green was not entitled to the pension he claimed. It is not in my power to furnish a more perfect statement of the case, as the papers in support of the claim were sent to the House of Representatives on the 23d of December, 1844, under a resolution of that body, and they have not since been in this office. I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
Committee on Pensions, House of Reps.

Pension Office, April 11, 1844.
Sir: In the case of James Green I make the following report:
In January, 1832, he was placed on the pension roll under the act of 1832, upon the evidence contained in the enclosed papers, marked from 1

GRACE HUDNUT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Grace Hudnut, report :

The petitioner states that she is the widow of Richard Hudnut, who was in the service of the United States during the war of the Revolution. She applies for a pension in consideration of the services of her said husband. The committee adopt the following letter from the Commissioner of Pensions as their report, and recommend the adoption of the following resolution :

Resolved, That the petitioner is not entitled to relief.

PENSION OFFICE, September 19, 1843.

SIR : In the case of Grace Hudnut, the proof of the date of the marriage is satisfactory, but no term of service is set forth as to period, length, and grade, names of company and field officers, stations, &c., as the regulations require, and a compliance with which is indispensable to enable the department to adjust a pro rata pension understandingly. As the suggestion is made that he was seen serving as a musician in Dayton's regiment, in 1778, the rolls of that and every other regiment of the Jersey line have been examined, unsuccessfully, for evidence of his service.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Judge JOHN LOWRY,
Princeton, New Jersey.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. W. L. MARY,
Secretary of War.

GRACE HUDNUT.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Grace Hudnut, report:

The petitioner states that she is the widow of Richard Hudnut, who was in the service of the United States during the war of the Revolution. She applies for a pension in consideration of the services of her said husband. The committee adopt the following letter from the Commissioner of Pensions as their report, and recommend the adoption of the following resolution:

Resolved, That the petitioner is not entitled to relief.

Pension Office, September 19, 1843.

Sir: In the case of Grace Hudnut, the proof of the date of the marriage is satisfactory, but no term of service is set forth as to period, length, and grade, names of company and field officers, stations, &c., as the regulations require, and a compliance with which is indispensable to enable the department to adjust a pro rata pension understandingly. As the suggestion is made that he was seen serving as a musician in Dayton's regiment, in 1778, the rolls of that and every other regiment of the Jersey line have been examined, unsuccessfully, for evidence of his service.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Judge John Lowry,
Princeton, New Jersey.

JOHN BLAIR FINDLEY.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of John Blair Findley, report :

The petitioner asserts that he is the son of Joseph L. Findley, who was a pensioner of the United States at the rate of \$480 per annum, the pay of a captain, and that he died on the 23d May, 1839. That his widow, Jane, (the petitioner's mother,) survived him, and that she died on the 1st July, 1840. He now petitions for the pension which he asserts was due his mother from the 23d May, 1839, to 1st July, 1840. The case was referred to the Commissioner of Pensions, who rejected the application, and subsequently the opinion of the Commissioner was sustained by the Secretary of War. The committee concur with the Commissioner, and append his letter as a part of this report, and recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted. The letter of the Commissioner is as follows :

PENSION OFFICE, April 17, 1845.

SIR: I have the honor to return you the letter of Mr. Findley, by Mr. Todd, invoking your "equitable jurisdiction and authority" to allow the claim of Jane Findley, deceased, which has been rejected for the reason assigned. Children are not entitled to the benefit of the pension laws in their own right, but may become the recipients of any pension, or balance of pension, due to a deceased parent at his or her death. At the time of claimant's death no widow was entitled to the benefit of the act of July 7, 1838, whose husband was provided for by the act of June 7, 1832; and as she died before August 16, 1842, which extended that act to such claimants, it follows that there was nothing due her at the time of her death, by the subsisting laws, which would be payable to her children. The department has no "equitable jurisdiction and authority" to contravene the clear and obvious enactments of the law.

I have the honor to be, very respectfully, sir, your obedient servant,
J. L. EDWARDS.

Hon. W. L. MARCY,
Secretary of War.

JOHN BLAIR FINDLEY.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SHAW, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of John Blair Findley, report:

The petitioner asserts that he is the son of Joseph I. Findley, who was a pensioner of the United States at the rate of \$480 per annum, the pay of a captain, and that he died on the 23d May, 1839. That his widow, Jane (the petitioner's mother), survived him, and that she died on the 1st July, 1840. He now petitions for the pension which he asserts was due his mother from the 23d May, 1839, to 1st July, 1840. The case was referred to the Commissioner of Pensions, who rejected the application, and subsequently the opinion of the Commissioner was sustained by the Secretary of War. The committee concur with the Commissioner, and append his letter as a part of this report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted. The letter of the Commissioner is as follows:

Pension Office, April 17, 1845.

Sir: I have the honor to return you the letter of Mr. Findley, by Mr. Todd, invoking your "equitable jurisdiction and authority," to allow the claim of Jane Findley, deceased, which has been rejected for the reason assigned. Children are not entitled to the benefit of the pension laws in their own right, but may become the recipients of any pension, or balance of pension, due to a deceased parent at his or her death. At the time of claimant's death no widow was entitled to the benefit of the act of July 7, 1838, whose husband was provided for by the act of June 7, 1832; and as she died before August 16, 1842, which extended that act to such claimants, it follows that there was nothing due her at the time of her death, by the subsisting laws, which would be payable to her children. The department has no "equitable jurisdiction and authority" to contravene the clear and obvious enactments of the law.

I have the honor to be, very respectfully, sir, your obedient servant,
J. L. EDWARDS.

Hon. W. L. MARCY,
Secretary of War.

MARY ANDREWS. FORD.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Mary Andrews, report :

The petitioner says that she is the widow of John Andrews, who was a soldier of the Revolution, and asks a pension for the military services of her said husband. Only three months and eight days' service is made out ; and as six months' service is the shortest period provided for by any of the existing pension laws, the committee recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

Ritchie & Heiss, print.

Pension Office, December 29, 1843.

SIR : In the application of George Alfred for an increase of his pension, I have the honor to inform you that his declaration furnishes conclusive proof that he is not the individual borne on the roll of Captain Joseph Elliot, in 1775, who commanded a company of the third Connecticut regiment.

Upon examining his papers, it is very doubtful whether the length he assigns to his several terms is not extravagant ; and as all claimants are required to adduce the best attainable proof, he should obtain the certificate of the secretary of Vermont, showing what evidence the rolls in his office, recently discovered, afford of each term for which he claims. His pension will be computed by the service embraced in that certificate, and in the mean time no payment can be made to him.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. R. McClary,
House of Representatives.

MARY ANDREWS.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Mary Andrews, report:

The petitioner says that she is the widow of John Andrews, who was a soldier of the Revolution, and asks a pension for the military services of her said husband. Only three months and eight days' service is made out; and as six months' service is the shortest period provided for by any of the existing pension laws, the committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.
Ritchie & Hays, printers.

NICHOLAS
GEORGE ALFORD.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of George Alford, report :

That the petitioner was for many years on the revolutionary pension roll from which his name was struck in December, 1843, it appearing, upon a re-examination of his declaration, that there was not sufficient proof to justify the Commissioner in continuing his pension. He now prays to have his name restored to the pension roll, and the arrear of pension paid from the time his name was struck off. The committee, upon an examination of the case, concur with the Commissioner of Pensions in his decision. The committee append the letter of the Commissioner as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, December 20, 1843.

SIR: In the application of George Alford for an increase of his pension, I have the honor to inform you that his declaration furnishes conclusive proof that he is not the individual borne on the roll of Captain Josiah Elliott, in 1775, who commanded a company of the third Connecticut regiment.

Upon examining his papers, it is very doubtful whether the length he assigns to his several terms is not extravagant; and as all claimants are required to adduce the best attainable proof, he should obtain the certificate of the secretary of Vermont, showing what evidence the rolls in his office, recently discovered, afford of each term for which he claims. His pension will be computed by the service embraced in that certificate, and in the mean time no payment can be made to him.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. R. McCLELLAND,
House of Representatives.

GEORGE ALFORD.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of George Alford, report:

That the petitioner was for many years on the revolutionary pension roll from which his name was struck in December, 1843, it appearing, upon a re-examination of his declaration, that there was not sufficient proof to justify the Commissioner in continuing his pension. He now prays to have his name restored to the pension roll, and the arrear of pension paid from the time his name was struck off. The committee, upon an examination of the case, concur with the Commissioner of Pensions in his decision. The committee append the letter of the Commissioner as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Pension Office, December 20, 1843.

Sir: In the application of George Alford for an increase of his pension, I have the honor to inform you that his declaration furnishes conclusive proof that he is not the individual borne on the roll of Captain Josiah Elliott, in 1775, who commanded a company of the third Connecticut regiment.

Upon examining his papers, it is very doubtful whether the length he assigns to his several terms is not extravagant; and as all claimants are required to adduce the best attainable proof, he should obtain the certificate of the secretary of Vermont, showing what evidence the rolls in his office, recently discovered, afford of each term for which he claims. His pension will be computed by the service embraced in that certificate, and in the mean time no payment can be made to him.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. R. McCLELLAND,
House of Representatives.

NICHOLAS SISCOE.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Nicholas Siscoe for a pension, report :

That the petitioner (who is a colored man) represents that he served in the war of the Revolution as a private, and as a substitute for his master, David Bogart, upon condition that at the end of the war he should have his freedom. He asserts various tours of service, but none of them are sustained by sufficient evidence to justify a report in his favor. The committee recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

Richie & Heiss, print.

Hon. H. J. SEAMAN,

House of Representatives.

The committee, after a careful examination of the papers submitted, concur with the decision of the Commissioners of Pensions, and therefore recommend the adoption of the following resolution :

Resolved, That the petitioner is not entitled to relief.

Richie & Heiss, print.

NICHOLAS SISCOE.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Nicholas Siscoe for a pension, report:

That the petitioner (who is a colored man) represents that he served in the war of the Revolution as a private, and as a substitute for his master, David Bogart, upon condition that at the end of the war he should have his freedom. He asserts various tours of service, but none of them are sustained by sufficient evidence to justify a report in his favor. The committee recommended the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Wm. H. H. & Co., printers.

WILLIAM VIA.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of William Via for a pension, report :

The petitioner prays that a pension may be granted him for military services rendered during the war of the Revolution. This case was before the Commissioner of Pensions on the 15th of August, 1844, who rejected it, for the want of proper proof to sustain it. The committee have referred it again to the same officer, and the following reply from him is adopted as a part of this report :

PENSION OFFICE, May 7, 1846.

SIR : I have the honor to return you the petition and papers of William Via, and to refer you to my letter of the 15th August, 1844, for the views entertained now, after a re-examination of the proofs.

The question presented by his case is, whether the parol proofs offered should, under any safe administrative rule of adjustment, be deemed sufficient to sustain a claim first presented in 1844, and founded upon a certificate of continental service which has been conclusively shown to have been rendered by a namesake. The delay of his claim while the means of proving or disproving it were rapidly passing away, and the silence of the records as to any other soldier of that name in the line, justify such a presumption against it as can be rebutted only by the most conclusive and credible evidence.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

The committee, after a careful examination of the papers submitted, concur with the decision of the Commissioner of Pensions ; and therefore recommend the adoption of the following resolution :

Resolved, That the petitioner is not entitled to relief.

Ritchie & Heiss, print.

WILLIAM VIA.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of William Via for a pension, report:

The petitioner prays that a pension may be granted him for military services rendered during the war of the Revolution. This case was before the Commissioner of Pensions on the 15th of August, 1844, who rejected it, for the want of proper proof to sustain it. The committee have re-ferred it again to the same officer, and the following reply from him is adopted as a part of this report:

Pension Office, May 7, 1846.

Sir: I have the honor to return you the petition and papers of William Via, and to refer you to my letter of the 15th August, 1844, for the views entertained now, after a re-examination of the proofs.

The question presented by his case is, whether the proof offered should, under any safe administrative rule of adjustment, be deemed sufficient to sustain a claim first presented in 1844, and founded upon a certificate of continental service which has been conclusively shown to have been rendered by a namesake. The delay of his claim while the means of proving or disproving it were rapidly passing away, and the absence of the records as to any other soldier of that name in the line, justify such a presumption against it as can be rebutted only by the most conclusive and credible evidence.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

The committee, after a careful examination of the papers submitted, concur with the decision of the Commissioner of Pensions; and therefore recommend the adoption of the following resolution:
Resolved, That the petitioner is not entitled to relief.

Wells & Hays, print.

ELEANOR WILLS.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Eleanor Wills, report:

The petitioner is the widow of Luke Wills, who perished on board the United States frigate *Insurgente*, which was lost in the year 1800. She received a pension of \$4 per month under the act of the 3d March, 1837, from the 10th August, 1800, up to August, 1842. Congress then repealed the law under which she drew her pension. This is one of a numerous class of cases; and as Congress has refused to pass a general law for their relief, the committee are not disposed to act upon individual cases.

The committee adopt a letter from the Commissioner of Pensions, addressed to the petitioner, as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, September 13, 1845.

MADAM: I have very carefully examined your case, and I regret extremely that it is not in the power of any executive officer of the general government to afford you any relief. It appears that your husband, the late Luke Wills, who was a landsman on board of the frigate *Insurgente*, perished on board that ship when she was lost, in the year 1800. None of the laws passed before the 3d March, 1837, allowed a pension to the widow of a person who was killed or died in the naval service prior to the 18th June, 1812. When the act of the 3d March, 1837, was passed, a pension of \$4 per month was allowed to you under that law, commencing on the 10th of August, 1800; and the pension was continued to you till August, 1842, when it ceased, as Congress passed a law on the 23d of that month repealing the act of the 3d March, 1837. No law has since been passed under which you can obtain a renewal of the pension. The act passed on the 3d of March last extends to those widows only who were pensioned under one of the five years' laws, and whose husbands died after the 18th of June, 1812. It would give the President much pleasure to afford the relief you ask, if there were any law by which you could be restored to the pension list.

I am, respectfully, &c.,

J. L. EDWARDS.

Mrs. ELEANOR WILLS,
of Baltimore, present.

ELEANOR WILLS.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Eleanor Wills, report:

The petitioner is the widow of Luke Wills, who perished on board the United States frigate *Insurgente*, which was lost in the year 1800. She received a pension of \$4 per month under the act of the 3d March, 1837, from the 10th August, 1800, up to August, 1842. Congress then repealed the law under which she drew her pension. This is one of a numerous class of cases; and as Congress has refused to pass a general law for their relief, the committee are not disposed to act upon individual cases.

The committee adopt a letter from the Commissioner of Pensions, addressed to the petitioner, as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Pension Office, September 13, 1845.

MADAM: I have very carefully examined your case, and I regret extremely that it is not in the power of any executive officer of the general government to afford you any relief. It appears that your husband, the late Luke Wills, who was a landsman on board of the frigate *Insurgente*, perished on board that ship when she was lost, in the year 1800. None of the laws passed before the 3d March, 1837, allowed a pension to the widow of a person who was killed or died in the naval service prior to the 18th June, 1812. When the act of the 3d March, 1837, was passed, a pension of \$4 per month was allowed to you under that law, commencing on the 10th of August, 1800; and the pension was continued to you till August, 1842, when it ceased, as Congress passed a law on the 23d of that month repealing the act of the 3d March, 1837. No law has since been passed under which you can obtain a renewal of the pension. The act passed on the 3d of March last extends to those widows only who were pensioned under one of the five years' laws, and whose husbands died after the 18th of June, 1812. It would give the President much pleasure to afford the relief you ask, if there were any law by which you could be restored to the pension list.

I am, respectfully, &c.

J. L. EDWARDS.

Mrs. ELEANOR WILLS,
of Baltimore, present.

LUCY CLARK.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Lucy Clark, report:

That the petitioner represents herself to be the widow of John Clark, who was a revolutionary pensioner, and prays that Congress will grant her an additional pension, "which her husband, during his life time, considered him entitled." The petition is not sustained by proper evidence, and the petitioner is not entitled to relief. The following letter from the Commissioner of Pensions is adopted as a part of this report:

PENSION OFFICE, May 2, 1846.

SIR: I have the honor to return you the papers of John Clark, deceased, whose petition for a higher rate of pension than was allowed him from 4th March, 1831, to the day of his death, has been renewed by his widow.

It is *his* claim which she is endeavoring to establish, but which, if allowed, would become payable to her. This claim has been repeatedly examined in this office, and rejected. The claimant asserted a claim successfully under the act of 18th March, 1818, in which he set forth no such service; but on the contrary declared, upon oath, that he served as a private in Captain Ball's company of 5th regiment of the Virginia line, for two years; then re-enlisted for three years in Captain Colston's company, of the same regiment; and having received a furlough after the battle of Yorktown, when the war ended.

He now *asserts* that he received a commission of lieutenant in Colston's company in May, 1778, which was exchanged for that of cornet in a North Carolina company of dragoons, in which he served till the army was disbanded, in 1781. The rolls of Captain Colston for *every month* of 1778 afford no evidence of his service in any grade, and the continental troops were not disbanded until November, 1783; but his admission that he did not hold the rank of cornet by the tenure of a commission, or some tantamount instrument, is fatal to the grade, under the established rules of this department. If he served as a cornet in the regular troops of Virginia or North Carolina, the archives at Richmond or Raleigh will verify it, and the

silence of those records is deemed, in this department, very conclusive proof against any claim based upon such service.

I have the honor to be, sir, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
House of Representatives.

The committee recommend the adoption of the following resolution:
Resolved, That the prayer of the petitioner ought not to be granted.

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Lucy Clark, report:

That the petitioner represents herself to be the widow of John Clark, who was a revolutionary pensioner, and prays that Congress will grant her an additional pension, "which her husband, during his life time, considered him entitled." The petition is not sustained by proper evidence, and the petitioner is not entitled to relief. The following letter from the Committee of Pensions is adopted as a part of this report:

Pension Office, May 2, 1846.

Sir: I have the honor to return you the papers of John Clark, deceased, whose petition for a higher rate of pension than was allowed him from the March, 1831, to the day of his death, has been renewed by his widow. It is his claim which she is endeavoring to establish, but which, if allowed, would become payable to her. This claim has been repeatedly examined in this office, and rejected. The claimant asserted a claim successfully under the act of 18th March, 1818, in which he set forth no such service; but on the contrary declared, upon oath, that he served as a private in Captain Ball's company of 5th regiment of the Virginia line, for two years; then re-enlisted for three years in Captain Colston's company, of the same regiment; and having received a furlough after the battle of Yorktown, when the war ended.

He now asserts that he received a commission of lieutenant in Colston's company in May, 1778, which was exchanged for that of cornet in a North Carolina company of dragoons, in which he served till the army was disbanded, in 1781. The rolls of Captain Colston for every month of 1778 afford no evidence of his service in any grade, and the continental troops were not disbanded until November, 1783; but his admission that he did not hold the rank of cornet by the tenure of a commission, or some similar instrument, is fatal to the grade, under the established rules of this department. If he served as a cornet in the regular troops of Virginia or North Carolina, the archives at Richmond or Raleigh will verify it, and the

HANNAH JANE WICK.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Hannah Jane Wick, report :

That the petitioner is the widow of John Wick, and is now a pensioner of the United States on the revolutionary pension roll. She applies to Congress for an increase of her pension. The committee do not believe that she has made out a case which entitles her to a favorable report from them. Her claim has been submitted to the Commissioner of Pensions, and rejected by him, for the reasons set forth in the annexed letter ; which letter the committee adopt as a part of their report, and recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

PENSION OFFICE, December 22, 1846.

SIR: The copies of the papers in the case of Mrs. Hannah Jane Wick, widow of John Wick, are herewith returned. The claimant asks for an increase of her pension, but we cannot grant it. She claimed for the service of her husband as a dragoon under Colonels Jacob Arnold, Ford, and Seely, from the beginning to the end of the war ; but no one term was set forth as required by the regulations respecting militia service, nor could the amount of service alleged to have been performed by him be ascertained with any degree of accuracy. The certificate of the Secretary of the State of New Jersey shows that John Wick, of Morris county, New Jersey, upon a settlement, received a certificate for £22 9s. 2d., which would cover the service of a dragoon for about seven months. This certificate was the only reliable evidence of service presented ; but wishing to make as liberal an allowance as we could from the circumstances of the case, we proposed to allow the claim for nine months' service, which proposition was accepted. The service usually performed by the militia, within the periods mentioned in the declaration, was nine months ; and I cannot, on reviewing the case, discover that we can, consistently with our duty and the practice of this office, make any further allowance.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. H. J. SEAMAN,

*Of the Committee on Rev. Pensions,
House of Representatives.*

HANNAH JANE WICK

JANUARY 9, 1847.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Hannah Jane Wick, report:

That the petitioner is the widow of John Wick, and is now a pensioner of the United States on the revolutionary pension roll. She applies to Congress for an increase of her pension. The committee do not believe that she has made out a case which entitles her to a favorable report from them. Her claim has been submitted to the Commissioner of Pensions, and rejected by him, for the reasons set forth in the annexed letter; which letter the committee adopt as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Pension Office, December 22, 1846.

Sir: The copies of the papers in the case of Mrs. Hannah Jane Wick, widow of John Wick, are herewith returned. The claimant asks for an increase of her pension, but we cannot grant it. She claimed for the service of her husband as a dragoon under Colonel Jacob Arnold, Ford, and Seely, from the beginning to the end of the war; but no one term was set forth as required by the regulations respecting militia service, nor could the amount of service alleged to have been performed by him be ascertained with any degree of accuracy. The certificate of the Secretary of the State of New Jersey shows that John Wick, of Morris county, New Jersey, upon a settlement, received a certificate for \$22 92, 34, which would cover the service of a dragoon for about seven months. This certificate was the only reliable evidence of service presented; but wishing to make as liberal an allowance as we could from the circumstances of the case, we proposed to allow the claim for nine months' service, which proposition was accepted. The service usually performed by the militia, within the periods mentioned in the declaration, was nine months; and I cannot, on reviewing the case, discover that we can, consistently with our duty and the practice of this office, make any further allowance.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN,
Of the Committee on Rev. Pensions,
House of Representatives.

FREELOVE WAID.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Freelove Waid, report:

The petitioner is now on the revolutionary pension roll, at the rate of \$28 32 per annum, and applies for an increase of pension. The committee have not before them any evidence which would justify them in reporting a bill in her favor. Her papers have been submitted to the Commissioner of Pensions, who says that her "claim was for a longer service than what we could allow, consistently with our knowledge of revolutionary service and the practice of this office. It is alleged that her husband, Increase Waid, enlisted in Captain Edwards's company for twelve months; but it is very clear that he did not serve so long in that company. As there was much uncertainty as to the length of his service, the department offered a pension for eight and a half months' service, which the Hon. Preston King accepted, on behalf of the widow. She now draws a pension of \$28 32 per annum for life, unless she should again marry. We cannot, upon the proof exhibited, allow any increase of the pension."

The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Ritchie & Heiss, printers.

Hon. H. J. SEAMAN, of the
Pension Committee, House of Reps.

The papers are on file in the proper office.

FREELOVE WAID.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Freelove Waid, report:

The petitioner is now on the revolutionary pension roll, at the rate of \$28 32 per annum, and applies for an increase of pension. The committee have not before them any evidence which would justify them in reporting a bill in her favor. Her papers have been submitted to the Committee of Pensions, who says that her "claim was for a longer service than what we could allow, consistently with our knowledge of revolutionary service and the practice of this office. It is alleged that her husband, Increase Waid, enlisted in Captain Edwards's company for twelve months; but it is very clear that he did not serve so long in that company. As there was much uncertainty as to the length of his service, the department offered a pension for eight and a half months' service, which the Hon. Preston King accepted, on behalf of the widow. She now draws a pension of \$28 32 per annum for life, unless she should again marry. We cannot, upon the proof exhibited, allow any increase of the pension."

The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Richie & Hens, printers.

NANCY ARMSTRONG.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Nancy Armstrong for a pension, report:

That the petitioner represents herself to be the widow of James Armstrong, who was in the war of the Revolution, and claims a pension in consideration of the services of her said husband. The committee do not find in the papers submitted sufficient evidence to sustain her claim to a pension. Her case has been several times before the Commissioner of Pensions, and is now rejected by him for the reasons set forth in the annexed letter; which letter the committee adopt as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

DECEMBER 22, 1846.

SIR: The enclosed papers, which you handed to me yesterday, in the case of Nancy Armstrong, widow of James Armstrong,* belong to the files of this office, and should not be sent from the seat of government.

A pension has been refused at this office, because the several statements which she has made respecting his service vary most materially from each other; and if any reliance can be placed on the accuracy of either of her declarations, the record evidence of service exhibited does not confirm her statement in any essential part.

Her husband was probably a militiaman. It is very clear to any one conversant with the investigation of revolutionary claims, that he did not perform the service mentioned in the certificate of the secretary of the commonwealth of Virginia.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. H. J. SEAMAN, of the Revolutionary
Pension Committee, House of Reps.

*The papers are on file in the pension office.

NANCY ARMSTRONG.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Nancy Armstrong for a pension, report:

That the petitioner represents herself to be the widow of James Armstrong, who was in the war of the Revolution, and claims a pension in consideration of the services of her said husband. The committee do not find in the papers submitted sufficient evidence to sustain her claim to a pension. Her case has been several times before the Commissioner of Pensions, and is now rejected by him for the reasons set forth in the annexed letter; which letter the committee adopt as a part of their report, and recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

DECEMBER 25, 1846.

Sir: The enclosed papers, which you handed to me yesterday, in the case of Nancy Armstrong, widow of James Armstrong, belong to the files of this office, and should not be sent from the seat of government.

A pension has been refused at this office, because the several statements which she has made respecting his service vary most materially from each other; and if any reliance can be placed on the accuracy of either of her declarations, the record evidence of service exhibited does not confirm her statement in any essential part.

Her husband was probably a militiaman. It is very clear to any one conversant with the investigation of revolutionary claims, that he did not perform the service mentioned in the certificate of the secretary of the Commonwealth of Virginia.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. H. J. SEAMAN, of the Revolutionary
Pension Committee, House of Reps.

*The papers are on file in the pension office.

SARAH KNIGHT.

JANUARY 9, 1847.

Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Sarah Knight, praying for a pension, report :

The petitioner states she is the widow of John Knight, who she represents was a captain in the North Carolina militia, and served during the war of the Revolution. Sundry affidavits are offered to establish her claim to a pension, but the committee do not think that the service of her husband is sufficiently established to justify a report in her favor. The petition has been referred to the Commissioner of Pensions, who says that "the records of North Carolina service in this office, both of the regulars and militia, are very full, but the name of your husband is not borne upon them as an officer or private." The committee concur with the Commissioner of Pensions that the claim is not sustained, and therefore recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

Ritchie & Heiss, print.

SARAH KNIGHT.

JANUARY 9, 1847.
Read, and laid upon the table.

Mr. SEAMAN, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to which was referred the petition of Sarah Knight, praying for a pension, report:

The petitioner states she is the widow of John Knight, who she reports was a captain in the North Carolina militia, and served during the war of the Revolution. Sundry affidavits are offered to establish her claim to a pension, but the committee do not think that the service of her husband is sufficiently established to justify a report in her favor. The petition has been referred to the Commissioner of Pensions, who says that the records of North Carolina service in this office, both of the regulars and militia, are very full, but the name of your husband is not borne upon them as an officer or private. The committee concur with the Commissioner of Pensions that the claim is not sustained, and therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Richie & Hays, print.

DAVID THOMAS.

[To accompany bill H. R. No. 607.]

JANUARY 20, 1847.

Mr. POLLOCK, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of David Thomas, report:

That this case was examined at the last session, and a bill for the relief of the petitioner was reported to the House by this committee. It was passed by the House, but failed in the Senate, for lack of time to act upon it. It is again reported, and its passage recommended.

MAY 4, 1846.

The Committee of Claims, to whom was referred the petition of David Thomas, report:

From the papers annexed hereto it will be seen that the petitioner paid, at sundry times, duties to the United States, at Philadelphia, to the amount of \$188 96. In his petition he acknowledges that \$47 42 have been refunded to him by the accounting officers. This amount being deducted, leaves the balance which, according to the letter of the Secretary of the Treasury, should be refunded; and for the repayment of that balance (\$141 54) to the petitioner, a bill is herewith reported, and its passage recommended.

Statement of duties paid by David Thomas on listing imported by him from Liverpool in the following vessels, viz:

Per ship Pocahontas, July 19, 1837.

BT,	4 bales listing	-	£23	7s.	1d.	
	Deduct 343 lbs. less than invoice		4	5	9	
			19	1	4	
	\$92 at 50 per ct.	-				\$46 00
	Excess	-				5 52
						<u>\$40 48</u>

Hon. GEORGE M. DALLAS, Philadelphia.

Statement—Continued.

Per ship Algonquin, March 23, 1838.

[T]	1	} 2 bales list, £5 14s. 9d.			
D	2				
			\$28 00 at 50 per ct.	-	\$14 00
			Excess	-	2 52
					11 48
			Deduct damage	-	1 23
					\$10 25

Per ship Pocahontas, July 17, 1838.

[T]	1 and 2.—2 bales listing, £5 9s. 2d.				
D		\$26 00 at 50 per ct.	-	13 00	
		Excess	-	2 34	
				10 66	

Per ship Alleghany, October 8, 1838.

[T]	1 and 2.—2 bales list, £8 8s. 5d.				
D		\$40 00 at 50 per ct.	-	20 00	
		Excess	-	3 60	
				16 40	

Per ship United States, September 23, 1839.

[T]	1.—1 bale list, £3 12s. 5d.				
D		\$17 00 at 50 per ct.	-	8 50	
		Excess	-	1 53	
				6 97	

Per ship Shenandoah, May 16, 1840.

[D]	1 and 2.—2 bales list, £7 10s. 0d.				
T		\$36 00 at 50 per ct.	-	18 00	
		Excess	-	4 32	
				13 68	

Per ship Glasgow, September 29, 1840.

D	1 a 5.—5 bales list, £19 9s. 8d.				
[T]		\$94 00 at 50 per ct.	-	47 00	
		Excess	-	11 28	
				35 72	

Per ship Shenandoah, October 18, 1844.

[A]	1 a 7.—7 bags woolen list, £28 5s. 0d.				
		\$137 00 at 40 per ct.	-	54 80	
				\$188 96	

DISTRICT AND PORT OF PHILADELPHIA.

We certify that the foregoing is a true statement of the duties paid by D. Thomas on listing imported by him in the above named vessels.

Given under our hands and the seal of the custom-house, this 19th of February, 1845.

[L. s.]

RICH'D L. HOWELL, *Dep. Col.*

J. D. GEORGE, *Dep. Naval Officer.*

SEPTEMBER 9, 1845.

MY DEAR SIR: A poor but industrious and respectable man, by the name of David Thomas, residing in this place, has heretofore earnestly applied to your department to cause to be refunded to him by the collector of this port the sum of \$134 16, which he was made to pay on importations of cloths in 1837, 1838, 1839, and 1840, as duties upon the listings or selvedge, beyond what were authorized by law, and notwithstanding his constant remonstrances.

Secretary Bibb, in a letter addressed, at an early date, to Mr. Blythe, the collector, recognised distinctly the view of the law taken by Mr. Thomas, but limited his directions to refund to cases of importation since the act of 1842.

It is believed that the just construction of the law being determined, no obstacle should be allowed to intervene and prevent Mr. Thomas receiving the small amount he claims as having been erroneously exacted from him within a reasonable time and against his verbal protests. He has forwarded to the department the necessary certificate, showing the amount to be settled, and to which I beg leave to refer you.

Permit me to express the hope that this subject may engage early a moment of your attention, and obtain from you the appropriate authorization or order to the collector.

Very truly and respectfully, your friend and servant,

GEORGE M. DALLAS.

The Hon. ROBT. J. WALKER,

Secretary of the Treasury.

TREASURY DEPARTMENT,

September 11, 1845.

DEAR SIR: The claim of D. Thomas, presented in your letter of the 9th instant, has been examined.

In accordance with a decision made by this department, Mr. Thomas has already received the excess of duty paid by him on all his importations of "listings," made subsequently to the passage of the tariff act of August 30, 1842; to which class of claims the department has heretofore limited its allowance of return duties. Mr. Thomas has been advised of this, and informed that his importations, on which he now asks return duties, having been made prior to the passage of the act, the department does not feel itself authorized, in conformity with the decision of my predecessor, to direct the refunding of the excess.

Very truly and respectfully, your obedient servant,

R. J. WALKER.

Hon. GEORGE M. DALLAS, *Philadelphia.*

TREASURY DEPARTMENT,

April 13, 1846.

SIR: I have the honor to acknowledge the receipt of your note, dated the 10th instant, with the accompanying papers of David Thomas.

The claim presented by Mr. Thomas is for the amount of duties paid on the importation of "listings"—being the selvedge of woollen cloths, torn off, and exported separately from the cloth; the importations being made while the tariff act of 1832 was in force, under the provisions of that act (2d clause of 2d section) a duty of 50 per cent. ad valorem having been levied and collected on the article as a "manufacture of wool."

After the passage of the tariff act of 1842, Mr. Thomas having made application for return of those duties, as well as the duties paid on an importation made in 1844, Mr. Secretary Bibb, on examination of the question, decided on the 27th February, 1845, that the article had been erroneously charged with duty as a manufacture of wool, and it was entitled to entry under the provisions of the 7th section (1st subdivision) of the act of 1842, at a duty of $\frac{1}{4}$ cent per lb., as belonging to the class of "rags, of whatever material." The excess of duty over this rate, paid on the importation in 1844, was accordingly returned, under my direction, on the 12th March, 1845, the department, at the same time, declining to refund the duties paid on importations made under the act of 1832, on the principle established by my predecessor, in his circular instructions of December 20, 1844.

It will be perceived by your honorable committee that the article was recognised by this department as "rags," and not as "manufactures of wool;" agreeably to which view, nothing but the doubt of the department, as to its legal authority, prevented the refunding the whole amount of duties paid on the importations prior to 1842, as "rags" were not liable to any duty subsequently to 1832 and previously to 1842.

Copies of the instructions of my predecessor, above referred to, dated December 20, 1844, and February 27, 1845, are herewith enclosed, together with the papers of Mr. Thomas.

With great respect, your obedient servant,

R. J. WALKER,

Secretary of the Treasury.

Hon. JAMES POLLOCK,

Committee of Claims, House of Reps.

TREASURY DEPARTMENT,

February 27, 1845.

SIR: A question has been submitted to this department as to the rate of duty chargeable under the law on "listings or strips of selvedge, or coarse border, of various length and width, torn off from cloths or cassimeres, and used in the United States exclusively in the manufacture of rag carpets."

On examination of the subject, it has been decided by this department that the article in question is entitled, on importation, to entry under the provisions of the 1st paragraph of the 7th section of the tariff act of 30th August, 1842, on the payment of a duty of one fourth of a cent per pound, as belonging to the classification of "rags, of whatever material."

You will be governed accordingly in the practice of your office; and in such cases as have occurred in your port since the passage of the before mentioned act, in which a greater amount of duties has been exacted and collected than was warranted by law, you will furnish the usual statements for the return of the excess, referring in such statements, and in your accounts of the customs, to this letter, by date, as your authority for the payments.

Very respectfully, your obedient servant,

GEO. M. BIBB,
Secretary of the Treasury.

C. P. VAN NESS, Esq.,
Collector, &c., New York.

[Circular to collectors and naval officers.]

DEPARTMENT OF THE TREASURY,

December 20, 1844.

Numerous applications having been made, and still being presented, to this department, for the return of alleged excess of duties paid on the importation of goods, wares, and merchandise, made at various periods prior to the passage of the tariff act now in force, in some cases the said duties having been paid under protest, and in others without such protest, it is proper to inform you, and through you the applicants at your port, that the department, having taken into consideration this class of claims upon the treasury, with special reference to its powers and duties under the laws in directing the refunding of duties, has determined that its exercise of such authority must be restricted to those cases only where the importation has been or shall be made subsequently to the passage of the tariff act of 30th August, 1842, whether the alleged excess of duties has been paid under protest or without such protest accompanying the payment.

GEO. M. BIBB,
Secretary of the Treasury.

[Circular to the collectors.]

TREASURY DEPARTMENT, September 9, 1828.

SIR: The tenth section of the act of Congress of the 19th May, 1828, in alteration of several acts imposing duties on imports, having made it the duty of the Secretary of the Treasury, under the direction of the President, from time to time to establish such rules and regulations, not inconsistent with the law of the United States, as the President shall think proper, to secure a just appraisal of all merchandise imported into the United States, and just and proper entries of such actual value thereof as the case may require, and of such actual value of every of them, I have now, with the approbation of the President, to communicate for your government the rules that follow. They will be subject to such addition or modification as more time and experience may point out as expedient.

The above act gives no specific direction as to the number of packages of

imported merchandise to be opened and inspected at the custom-house, but it requires that in *all* cases in which the duties are to be regulated by the square yard, the *value* is to be appraised and ascertained, as well as the number of square yards. The 15th section of the supplementary collection law of the 1st of March, 1823, specifies the minimum number of packages that are to be opened and examined, and leaves it discretionary with the collectors to have as many more opened and examined as they may think proper. Hence, in relation to the number of packages to be opened and examined, you will still be governed by the act last mentioned.

Pursuing, however, the spirit and intention of the act of the 19th May last, it will be proper in every case in which the value of the goods is stated in the invoice with reference to the running yard, or in which the duty is to be regulated by the square yard, that there should be an actual measurement of a reasonable number of the pieces of the goods, so as to be satisfied, on the one hand, that the number of running yards included in the invoice is correct, and, on the other, that, by taking the average number of the square yards in the pieces measured, a fair estimate may be made of the number contained in all the pieces in each package.

In the measurement to ascertain the number of square yards contained in any given piece of goods, the list, fringes, and selvedge are not to be included. In order to the better preparation of the latter, a correspondence was maintained with the collectors of the principal ports of the Union, during the past summer, in relation to the execution of the act of the 19th of May, and it appears, among other things, that their practice differs on this point, some including this appendage in their measurements, while others have excluded them.

On fully weighing the reasons applicable to these cases, those for exclusion have been adopted. The list of woollen cloth is a coarse border, for the purpose of distending the webb in the loom, and by its contrast of color exhibiting the cloth to advantage in the piece; but in the conversion of the cloth into garments it is torn off and rejected as useless; if included in the measurement, the operation would indeed sometimes be favorable to the revenue, but not always, or perhaps generally, as the minimum under which the cloth would be classed, by including the list, would reduce the cost in proportion to the increase in the number of square yards: the difference under this principle might sometimes prove to be very great against the revenue. The reason for excluding fringes is considered to be equally strong. Although, as an ornamental appendage, it cannot be called useless, yet, if fringe is to be included in the square yard measurement, the foreign manufacturer will be furnished with a motive to enlarge its dimensions and reduce its cost. Thus, while the main fabric may be greatly enhanced in value, it may, nevertheless, by the effect of the fringe, be completely reduced from one minimum to another, to the manifest disadvantage of the revenue. The enclosed document, (lettered A,) furnished by Collector Jones, of Philadelphia, exemplifies the effect of including and excluding selvedge and fringe in the measurement.

It appears to have been a long established usage of trade in some parts to allow per centage, not, however, exceeding five per cent., for measure on broadcloth in the running yard. In other parts the same per centage has been allowed as a discount from the price on the same kind of cloths. There is no direct provision in the revenue laws relating to these discounts, which appear, under one or the other form, to have been always allowed;

but the collector's law provides that the ad valorem rates of duty shall be estimated on the actual cost of the goods; hence it has been deemed convenient to the spirit of the law to allow all fair discount or reduction actually made on the face of the invoice. Such allowances may therefore be continued as being deemed reasonable, as well as heretofore sanctioned by the government; the usage, however, must be confined to broadcloth, not extended to cassimeres or other various goods, nor must it exceed the above limit.

To the honorable the House of Representatives of the United States of America.

The petition of David Thomas humbly sheweth :

That your petitioner, the undersigned, is a weaver, residing in the city of Philadelphia, where, in the pursuit of his calling, he has to use much listing, and has had occasion to import much of the same from the manufacturing districts in England.

Previous to the year 1842, the Treasury Department thought proper to charge duty on the said listing as manufactured goods, which your petitioner, in ignorance, paid, to the amount of \$133 46, amounting, with interest, at present to \$207 10.

Subsequent to the year 1842, your petitioner has had returned to him \$47 42.

The late Secretary of the Treasury has acknowledged the justice of the claim to the whole.

Your petitioner therefore prays from your honorable House that redress which he has, after much toil, labor, and deprivation, sought in vain; and your petitioner, as in duty bound, will ever pray.

DAVID THOMAS,
Philadelphia.

The memorial of Ann B. Cox, widow and executrix of the last will and testament of the late Nathaniel Cox, formerly navy agent, both of the city of New Orleans, State of Louisiana,

Sheweth :

That the accounts, as navy agent, of the late Nathaniel Cox, were finally settled on the 15th October, 1829, by the accounting officers of the treasury, and a balance admitted in favor of said Cox, amounting to thirteen hundred and twenty dollars and twenty seven cents, as will appear from the annexed copy of the reconciling statement furnished by the Treasury Auditor, accompanied by the late David Thomas, Esq. 2d. Vice President of the Association of Commercial Merchants of the city of New Orleans, in the years 1824 and 1825. There being no money in the hands of said Cox, or his representatives on the books of the treasury, the said balance was applied to for the payment of said balance, and it was ordered by an act of Congress making further appropriation, that the said balance be paid. Your memorialist would, therefore, respectfully request your honorable body that the necessary authority may be given to the proper officers to pay this admitted balance.

Respectfully submitted,

but the collector's law provides that the ad valorem rates of duty shall be estimated on the actual cost of the goods; hence it has been deemed convenient to the agent of the law to show all fair discount or reduction actually made on the face of the invoice. Such allowances may therefore be considered as being deemed reasonable, as well as heretofore sanctioned by the Government; the usage, however, must be confined to broadcloth, not extended to cassimere or other various goods, nor must it exceed the above limit.

To the honorable the House of Representatives of the United States of America.

The petition of David Thomas humbly sheweth:
That your petitioner, the undersigned, is a weaver residing in the city of Philadelphia, where, in the pursuit of his calling, he has to use much machinery, and has had occasion to import much of the same from the manufacturing districts in England.
Previous to the year 1842, the Treasury Department thought proper to charge duty on the said machinery as manufactured goods, which your petitioner, in ignorance, paid to the amount of \$123 46, amounting, with interest, at present to \$207 10.
Subsequent to the year 1842, your petitioner has had returned to him \$47 42.
The late Secretary of the Treasury has acknowledged the justice of the claim to the whole.

Your petitioner therefore prays from your honorable House that redress which he has, after much toil, labor, and deprivation, sought in vain; and your petitioner, as in duty bound, will ever pray.

DAVID THOMAS

Philadelphia.

ANN B. COX.

[To accompany bill H. R. No. 608.]

JANUARY 20, 1847.

Mr. DANIEL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the memorial of Ann B. Cox, widow of the late Nathaniel Cox, formerly navy agent at New Orleans, report :

That the memorial and papers from the Fourth Auditor of the Treasury, hereto annexed, fully explain the nature and merits of this claim.

The committee report herewith a bill for the relief of the legal representatives of Nathaniel Cox, allowing the sum certified by the treasury officers, and interest thereon from the time the balance due was ascertained.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled :

The memorial of Ann B. Cox, widow and executrix of the last will and testament of the late Nathaniel Cox, formerly navy agent, both of the city of New Orleans, State of Louisiana,

RESPECTFULLY REPRESENTS :

That the accounts, as navy agent, of the late Nathaniel Cox, were finally settled on the 16th October, 1829, by the accounting officers of the treasury, and a balance admitted in favor of said Cox, amounting to thirteen hundred and twenty dollars and twenty-seven cents, as will appear from the annexed copy of the reconciling statement furnished by the Fourth Auditor, accompanied by his letter dated October 23, 1829, payable out of the appropriations of contingent expenses of the navy prior to the years 1824 and 1826. There being no money to the credit of these appropriations on the books of the treasury, the accounting officer, when applied to for the payment of this balance, could not do so without an act of Congress making further appropriation for that purpose. Your memorialist would, therefore, respectfully request of your honorable body that the necessary authority may be given to the accounting officers to pay this admitted balance.

Your memorialist begs leave respectfully to refer to the accompanying papers, marked A, B, and C, duly certified, as explanatory of this case. And your memorialist, as in duty bound, will ever pray.

ANN B. COX,

By her attorney, CHARLES DE SELDING.

WASHINGTON, D. C., *December 5, 1846.*

A.

TREASURY DEPARTMENT,
Fourth Auditor's Office, August 7, 1846.

SIR: I received your letter of the 4th instant, requesting payment of a sum alleged to be due from the United States to the estate of the late Nathaniel Cox, who was navy agent at New Orleans. It appears, by a statement of his account made in the year 1829, that there was a balance in his favor of thirteen hundred and twenty dollars and twenty-seven cents; but the appropriation to which alone it was chargeable having been long since exhausted, it cannot be paid without an act of Congress making a further appropriation.

The rejected vouchers to which you allude cannot be found among the papers, and must, I presume, have been returned to Mr. Cox.

I am, sir, very respectfully, your obedient servant,

A. O. DAYTON.

TO CHARLES DE SELDING, Esq.,
Washington, D. C.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 3, 1846.

I certify the foregoing to be a correct copy from the records of this office.

A. O. DAYTON.

B.

TREASURY DEPARTMENT,
Fourth Auditor's Office, October 23, 1829.

SIR: I herewith send you a reconciling statement of your account for expenditures to the 30th June, 1829, as adjusted and reported to, and revised by, the Second Comptroller.

I am, sir, respectfully, your obedient servant,

AMOS KENDALL.

NATHANIEL COX, Esq.,
Late navy agent, New Orleans.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 3, 1846.

I certify the foregoing to be a correct copy from the records of this office.

A. O. DAYTON.

C.

Reconcilement of the account of Nathaniel Cox, late navy agent at New Orleans, from September 30, 1828, to June 30, 1829.

DR.

Voucher 203, abstract E, disallowed in 2d quarter, 1826	-	\$150 00
Do 202, do do do	-	15 75
Do 209, returned by agent in his quarterly accounts, 1829, and again disallowed	-	175 00
Commission on the above \$340 75	-	3 40
Do overcharged, as appears from reconciling statement	-	6 25
Do for 2d quarter, 1829	-	05
Voucher 240, abstract G, disallowed in 1st quarter, 1829	-	275 00
Commission on the above \$275	-	2 75
Balance due agent, per office statement	-	1,320 27
		1,948 47

CR.

By balance due agent, per his account current	-	\$1,923 73
By account of vouchers Nos. 1, 2, and 3, abstract K, not charged by agent in his account current, and commissions on the same	-	24 74
		1,948 47

TREASURY DEPARTMENT,

Fourth Auditor's Office, October 16, 1829.

AMOS KENDALL.

TREASURY DEPARTMENT,

Fourth Auditor's Office, December 3, 1846.

I certify the foregoing to be a correct copy from the records of this office.

A. O. DAYTON.

Reconciliation of the account of Nathaniel G. Coe, late money agent at New Orleans, from September 30, 1838, to June 30, 1839.

Dr.

Voucher 203, abstract E, disallowed in 2d quarter, 1839	\$150 00
Do 202, do do	15 75
Do 202, returned by agent in his quarterly accounts, 1839, and again disallowed	175 00
Commission on the above \$340 75	3 40
Do overcharged, as appears from reconciling statement	6 25
Do for 2d quarter, 1839	05
Voucher 210, abstract G, disallowed in 1st quarter, 1839	275 00
Commission on the above \$275	2 75
Balance due agent, per office statement	1,320 27
	<u>1,948 47</u>

Cr.

By balance due agent, per his account current	\$1,923 73
By account of vouchers Nos. 1, 2, and 3, abstract H, not charged by agent in his account current, and commissions on the same	24 74
	<u>1,948 47</u>

TREASURY DEPARTMENT,
Fourth Auditor's Office, October 16, 1839.
AMOS KENDALL.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 3, 1840.
I certify the foregoing to be a correct copy from the records of this office.
A. O. DAYTON.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 3, 1840.
I certify the foregoing to be a correct copy from the records of this office.
A. O. DAYTON.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 3, 1840.
I certify the foregoing to be a correct copy from the records of this office.
A. O. DAYTON.

ARCHIBALD LOUGHREY.

[To accompany bill H. R. No. 611.]

JANUARY 20, 1847.

Mr. BLANCHARD, from the Committee on Public Lands, made the following

REPORT:

The Committee on Public Lands, to whom was referred the claims of Jane Thompson and Elizabeth McBrier, of Westmoreland county, Pennsylvania, make the following report:

That the Commonwealth of Virginia, on the second day of January, 1781, yielded to the Congress of the United States, for the benefit of said States, all right, title, and claim which the said Commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession; which said act of cession, with the conditions annexed, the Congress of the United States accepted, among which conditions was the following: "That a quantity, not exceeding one hundred and fifty thousand acres, of land, promised by the State of Virginia, should be allowed and granted to the then Colonel (now General) George Rogers Clark, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskias and St. Vincent's were reduced, and to the officers and soldiers that have since incorporated into the said regiment; to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose; and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia."

The committee further report, that it appears by the affidavits of credible witnesses that Colonel Archibald Loughrey, father of the above-named claimants, (which affidavits are hereto annexed and made part of this report,) some time during the summer of 1781 raised several companies of volunteers, of which he was chosen commander, for the purpose of joining the forces of General George Rogers Clark in the expedition against the Mohawk and Seneca Indians, inhabiting the country now belonging to the State of Ohio. That in August, 1781, he marched with his men to Wheeling, Ohio, expecting to join the forces under the said General Clark, but when he and his men arrived at Wheeling they found General Clark had left that place a few days before they arrived, but had left boats for Colonel Loughrey and his men to follow them. That they took the boats thus left for them, but somewhere near the mouth of the Big Miami river

Colonel Loughrey and his men landed to cook and eat some food, and were attacked by a large body of Indians, and the said Loughrey and a number of his men were killed, and the remainder taken prisoners, by the Indians, and never joined the forces under General Clark, as was intended.

The committee, therefore, report that, upon the above state of facts, the heirs of the said Colonel Archibald Loughrey are entitled to the same quantity of bounty land as if their father had actually joined the forces under General George Rogers Clark.

PENNSYLVANIA, }
Westmoreland county, } ss.

Personally appeared before the subscriber, a justice of the peace in and for said county, James Kean, who being duly sworn according to law, upon his solemn oath doth depose and say: That some time in the summer of seventeen hundred and eighty-one, volunteers were raised in Westmoreland county, Pennsylvania, for the purpose of joining an expedition at that time making against the Mohawk, Seneca, and other tribes of Indians; that said volunteers were to march in the country now composing the State of Ohio; that the companies in Westmoreland county were under the command of Colonel Archibald Loughrey, and were composed of upwards of a hundred men under the command of said colonel. This deponent was attached to a company of rangers, under Captain Thomas Stokely; that they had volunteered to march under the command of General George Rogers Clark on the expedition; that Colonel Loughrey marched his men to Wheeling, where this deponent understood they were to join General Clark. On the arrival of the troops there, they found that General Clark had left there four days before, but had left four or five boats behind to carry on Colonel Loughrey and his men. From this place Colonel Loughrey sent a messenger (Richie Wallace) after General Clark; he brought word that Clark would wait for them at the mouth of some creek, the name of which is not remembered by deponent. Colonel Loughrey and his companies embarked in the boats left for them at Wheeling by General Clark, and arrived on that or the next day at the mouth of the creek; on their way down they took sixteen deserters from the troops of General Clark, and carried them along back. On their arrival at the creek they found General Clark and his troops had left. Colonel Loughrey then proceeded with his men after Clark in the boats. On the 21st or 24th of August, 1781, they landed on the north bank of the Ohio, about ten miles below the mouth of the Big Miami river, for the purpose of cooking some victuals; the river was then low; there was a sand-bar that reached into the river from the south side. As they were kindling their fires, the Indians commenced an attack from an upper bank. Colonel Loughrey ordered his troops to the boats, to pass over to the sand-bar; as soon as they embarked and commenced moving over, a large body of Indians rushed from the woods on the bar and prevented a landing or making an escape, when the colonel ordered us to surrender. There were about thirty men killed in the fight on the side of the whites. Within an hour or two after the fight, this deponent understood Colonel Loughrey was killed by a Shawnee Indian as he was sitting on a log; deponent,

within that time, saw the scalp of the colonel in the hands of an Indian; the peculiar color of the hair caused deponent to know the scalp.

JAMES KEAN, his mark.

Sworn and subscribed before me this 25th August, 1843.

W. McWILLIAMS.

I do certify that I am acquainted with James Kean, the foregoing deponent, and that he is a man of credibility, and that full credit is given to his testimony as such.

Witness my hand and seal this 25th August, A. D. 1843.

W. McWILLIAMS. [L. s.]

STATE OF PENNSYLVANIA, } ss.
Westmoreland county.

I, David Fullwood, prothonotary of the court of common pleas of the county of Westmoreland, in the Commonwealth of Pennsylvania, do hereby certify that W. McWilliams, esq., before whom the foregoing deposition was made, and whose name, in his own proper handwriting, is to the above certificate appended, was then, and now is, an acting justice of the peace in and for said county of Westmoreland, duly commissioned and appointed, and to all whose official acts and deeds full faith and credit are of right due.

[L. s.] In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Greensburg, the twenty-fifth day of August, in the year of our Lord one thousand eight hundred and forty-three.

DAVID FULLWOOD, *Prot.*

PENNSYLVANIA, } ss.
Butler county,

Personally appeared before me, a justice of the peace in and for the county of Butler, William Christie, and after being duly sworn according to law, deposeth and saith, that he was well acquainted with Colonel Archibald Loughrey, of Westmoreland county, and his wife Mary, and that he was well acquainted with their two reputed daughters, Jane Loughrey and Elizabeth Loughrey, and that said Jane was married to Samuel Thompson, of said county of Westmoreland, and that Elizabeth was married to David McBrier of the same county. And further saith not.

WILLIAM CHRISTIE.

Sworn and subscribed before me, this the 9th day of March, 1844.

JOHN BREWSTER, J. P.

I do certify that I am acquainted with William Christie, the foregoing deponent, and that he is a man of credibility, and that full credit is given to his testimony as such.

Given under my hand and seal, this 9th day of March, 1844.

JOHN BREWSTER, *J. P.* [L. s.]

BUTLER COUNTY, }
State of Pennsylvania, } ss.

I, Jacob Mechling, jr., prothonotary of the courts of common pleas in and for the county of Butler, in the Commonwealth of Pennsylvania, do by these presents certify that John Brewster, esq., before whom the foregoing certificate was taken, and who has thereunto, in his own proper handwriting, subscribed his name, was at the time of taking such certificate, and now is, an acting justice of the peace in and for the said county, duly commissioned and sworn, to all whose acts, as such, due faith and credit are, and of right ought to be given, throughout the United States and elsewhere.

In testimony whereof, I have hereunto set my had, and affixed the seal of the said court, at Butler, in the said county, this 9th day of March, in the year of our Lord one thousand eight hundred and forty-four.

Attest :

JACOB MECHLING, JR.,
Prothonotary.

PENNSYLVANIA, }
Westmoreland county, } ss.

Personally appeared before me, the subscriber, a justice of the peace in and for said county, James Chambers, who being duly sworn according to law, upon his solemn oath doth depose and say: that I was taken prisoner by the Indians in June, seventeen hundred and eighty-one, and taken to Detroit; and that while there Ezekiel Lewis, with several others, were brought prisoners to Detroit, and stated to said deponent that they had been taken prisoners with Colonel Archibald Loughrey, and that Colonel Loughrey was killed by the Indians. Said deponent was acquainted with Colonel Loughrey; and his family consisted of a wife and two daughters—Jane, who was afterwards married to Samuel Thompson, since deceased, and Elizabeth, who was afterwards married to David McBrier, since deceased—who now reside in Washington township, Westmoreland county, and State of Pennsylvania. And further saith not.

JAMES CHAMBERS.

Sworn and subscribed before me, March 6th, 1844.

ALEXANDER THOMPSON.

I do certify that I am acquainted with James Chambers, the foregoing deponent, and that he is a man of credibility, and that full credit is given to his testimony as such. Witness my hand and seal, this 6th day of March, A. D. 1844.

ALEX. THOMPSON. [L. s.]

STATE OF PENNSYLVANIA, }
 Westmoreland county, } ss.

I, David Fullwood, prothonotary of the court of common pleas for the county of Westmoreland, in the Commonwealth of Pennsylvania, do hereby certify that Alexander Thompson, before whom the foregoing deposition was made, and whose name, in his own proper handwriting, is to the within certificate appended, was then, and now is, an acting justice of the peace in and for the county of Westmoreland, duly commissioned and appointed; and to all whose official acts and deeds full faith and credit are of right due.

In testimony whereof, I have hereunto set my hand and affixed
 [L. s.] the seal of said court, at Greensburg, the fourteenth day of
 March, in the year of our Lord one thousand eight hundred and
 forty-four.

DAVID FULLWOOD,
Prothonotary.

PENNSYLVANIA, }
 Armstrong county, } ss:

Personally appeared before the subscriber, a justice of the peace in and for said county, Ezekiel Lewis, a resident of the county of Armstrong, Pennsylvania, who being duly sworn according to law, upon his solemn oath doth depose and say: That, some time in the summer of seventeen hundred and eighty-one, volunteers were raised in Westmoreland county, Pennsylvania, for the purpose of joining an expedition at that time making against the Mohawk, Seneca, and other tribes of Indians; that said volunteers were to march in country now composing the State of Ohio; that the companies in Westmoreland were put under the command of Archibald Loughrey, then a resident of Westmoreland county, who commanded said companies as colonel, and was received and acknowledged by them as their colonel in command; the troops rendezvoused on Sewekey or Jacob swamps, in Westmoreland county; Colonel Loughrey had, when we started from the place of rendezvous, upwards of eighty men; the companies composing Colonel Loughrey's command were commanded by Captains Robert Orr and William Campbell; I was under the command of Captain William Campbell. Deponent says they marched from the place of rendezvous, he thinks, to McKeesport, on the Monongahela, and descended said river to Pittsburg; Captain Stokely joined the command of Colonel Loughrey, same place, before we got to Wheeling, (*don't recollect the place particularly*;) from Pittsburg we travelled by land to Wheeling, where we embarked in boats, and started down the Ohio river to join General Clark; in one or two days we stopped at the mouth of a creek, where we expected to meet with General Clark; when we arrived there, General Clark had gone on down the river; on our way down the river we took some deserters from General Clark's command, and carried them with us; Colonel Loughrey proceeded on down the river, intending to overtake General Clark, until the 24th August, 1781, about 9 or 10 o'clock; we landed on the north bank of the Ohio for the purpose of cooking breakfast; we had killed a buffalo the evening before; where

we landed was near the mouth of the Big Miami; as we were kindling fires, the Indians commenced an attack upon us; there were about forty of the whites killed, and the rest all taken prisoners, together with Colonel Loughrey and all his officers; in about two hours after we were taken, one of the Indians tomahawked Colonel Loughrey, sitting on a log; I saw him after he was killed, and his scalp was taken off; deponent saith he had been intimately acquainted with Colonel Loughrey for some years before the time of the campaign spoken of; knew he had a wife and some children; does not know how many. And further saith not.

EZEKIEL LEWIS.

Sworn and subscribed before me, 11th March, 1844.

JNO. R. JOHNSTON,

Justice of the Peace.

We do certify that we have been intimately acquainted with Ezekiel Lewis, the foregoing deponent, for the last twenty-five years, and that he is a man of truth and veracity; and that he is so acknowledged in the neighborhood in which he has resided since the time we have been acquainted with him.

Witness my hand and seal, 11th March, 1844.

JNO. R. JOHNSTON, [L. s.]

Justice of the Peace.

ROBERT ORR.

STATE OF PENNSYLVANIA, }
Armstrong county, } *scd* :

I, James Douglass, prothonotary of the court of common pleas in and for said county, do certify that John R. Johnston, esquire, before whom the within deposition was taken, was, at the time of taking the same, an acting justice of the peace in and for said county, duly elected, commissioned, and sworn, to all whose official acts, as such, full faith and credit are due and of right ought to be given, as well throughout the county aforesaid as elsewhere; and that his signature thereto is genuine, and in his proper handwriting.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Kittanning, the 11th day of March, in the year
[L. s.] of our Lord one thousand eight hundred and forty four.

J. DOUGLASS, *Prothonotary.*

That the Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

Resolved, That the Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

Resolved, That the Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

The Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

The Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

It is understood that the Committee on the subject of the proposed amendment to the Constitution, in relation to the election of Senators, do hereby report the following:

...and we were kindling
...there were about forty of
...together with Colonel
...we were taken,
...sitting on a log; I
...deponent said
...for some years
...he had a wife and some
...and out.

EMERSON LEWIS.

...17th March, 1944.

JOHN R. JOHNSTON,

Justice of the Peace.

...with Emerson Lewis
...for the last twenty-five years, and that he
...and that he is well known to the
...which he has resided since the time he has been so
...with him.

Witness my hand and seal, 17th March, 1944.

JOHN R. JOHNSTON, [L.S.]

Justice of the Peace.

ROBERT ORR.

...of the Court.

...it is well known to the Court
...before whom
...the same
...admitted,
...and credit
...the Court
...in the year
...and forty four.

J. B. COLEMAN, P. M.

JOHN P. SKINNER AND OTHERS.

[To accompany bill H. R. No. 614.]

JANUARY 20, 1847.

Mr. MILTON BROWN, from the Committee on the Judiciary, made the following.

REPORT :

The Committee on the Judiciary, to whom was referred the petition of John P. Skinner and the legal representatives of Isaac Green, ask leave to submit the following report :

On the 4th of August, 1836, John P. Skinner and Isaac Green became sureties on the official bond of Thomas Emerson, then recently appointed pension agent for the Vermont agency. Emerson was a defaulter; and in 1839 judgment was recovered by the United States against him for the sum of \$13,690, and against his sureties. Of this sum there has been paid by the sureties \$8,313 34; and from the residue of the said judgment they have been discharged by Congress, for reasons set forth in the act of Congress passed on the 4th day of February, 1843. They now ask that the sum of \$8,313 34, paid by them to the United States, may be refunded to them on the same ground.

It is clearly shown, by the proofs in this case, that at the time of Emerson's failure, and after his defalcation became known to the government, the whole amount of that defalcation might have been secured to the government upon property which was perfectly accessible, and to which, as a creditor, the government would have been entitled on account of its legal priority. The officers of the government whose business it was were called on, and urged again and again, by the sureties and their friends, to institute the proper legal proceedings to secure the payment of this debt out of Emerson's property, which was declined and refused, or at any rate wholly omitted, until it was too late: suit was not commenced against Emerson till August, 1838.

It is understood that, under the attachment laws of Vermont, on commencing a suit for a debt, the property of the debtor may be immediately seized and held to satisfy the judgment when obtained. Under these laws, suits were commenced and property attached by Emerson's creditors immediately on the occurrence of his failure. The papers show about \$15,000 worth of property, real and personal, belonging to Emerson at the time, which could be reached, and was reached by attachment. He had, besides, a large amount of personal property, which it is understood could not be

reached by attachment, but of which a voluntary assignment was made by Emerson for the benefit of certain creditors.

All this property, the committee suppose, was subject to the United States to satisfy its debt, notwithstanding any previous assignment or any previous attachments. By the 5th section of the act of Congress of March 3, 1797, (vol. 2, p. 595,) it is expressly provided that where any person, becoming indebted to the United States by bond or otherwise, should become insolvent, the debt due to the United States shall be first satisfied.

There seems to have been no doubt entertained in any quarter that the debt due the United States by Emerson was one which had priority under this statute; and it seems certain, if the remedy had been pursued with any promptness, the whole debt would have been secured. And it is impossible to discover any just or plausible reason why the urgent request and demand of the sureties in this case, that the officers of the government would pursue the proper remedy, should have been so long and so pertinaciously refused. It was no more than an ordinary act of justice to the sureties that the priority of the government should have been enforced. They had no priority, and would have had none even if they had paid the debt; and, in this respect, they had not the same advantage which the law gives to sureties on a custom house bond. It was more imperatively, therefore, the duty of the officers of the government to have enforced its right of priority, at the earnest solicitation of the sureties, and for their indemnification and relief. Surely it cannot be the policy of the law, or the true policy of the government, after the government has been expressly armed with this priority, that its officers should stand by and see the property of its debtor swept off by private creditors, and then turn round upon insolvent sureties and hold them to answer, to their utter ruin. Surely it was never intended to put it in the power of the officers of the government to exercise at their pleasure this sort of favoritism on one side, and oppression on the other. It is believed to be a safe and salutary rule, that when a debt due the government fails to be collected of the real debtor, through the palpable neglect or failure in duty of its own officers, it shall not be collected of the sureties of such debtor, unless there should be something peculiar in the circumstances to forbid their being held excusable or discharged.

The principle thus stated was recognised by Congress in an act passed on the 4th day of February, 1843, by which the petitioners were discharged from the payment of the sum then due upon the judgment, and in the opinion of the committee applies equally to the sum previously collected by the government, under the circumstances stated in this report.

They accordingly report a bill.

Emerson till August, 1838.

It is understood that, under the attachment laws of Vermont, on commencing a suit for a debt, the property of the debtor may be immediately seized and held to satisfy the judgment when obtained. Under these laws, suits were commenced and property attached by Emerson's creditors immediately on the occurrence of his failure. The papers show about \$15,000 worth of property, real and personal, belonging to Emerson at the time, which could be reached, and was reached by attachment. He had, besides, a large amount of personal property, which it is understood could not be

NANCY HAGGARD.

[To accompany bill H. R. No. 615.]

JANUARY 20, 1847.

Mr. GRIDER, from the Committee on Revolutionary Claims, made the following

REPORT :

The Committee on Revolutionary Claims, to whom were referred the memorial and papers of Nancy Haggard, adopt the report made by this committee at a former session, and recommend the passage of said bill, of January 4, 1838.

JANUARY 4, 1838.

The Committee on Revolutionary Claims, to whom the petition and papers of Nancy Haggard were referred, report :

That an act of Congress passed the 2d day of July, 1836, which directed the payment to Nancy Haggard, only daughter and sole heir of William Grymes, who was a captain in the army of the Revolution, and was slain in battle on 1st of August, 1777, of the principal sum due to her for the seven years' half pay of a captain ; which principal sum has been paid to her, and she now petitions for the interest due thereon at the time the principal was paid. The committee concur in the opinion that the interest claimed is justly due and ought to be paid, and report a bill.

Ritchie & Heiss, print.

SAMUEL GRAVES.

[To accompany bill H. R. No. 617.]

JANUARY 20, 1847.

Mr. STANTON, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the petition of Samuel Graves for a pension, respectfully report :

The petitioner was wounded while serving as a pilot on board the United States sloop-of-war Eagle, on lake Champlain, in June, 1813. The Commissioner of Pensions refused to place his name upon the pension list, because of the petitioner's delay in making his application, and because his name is not found on the return of the wounded.

The committee think the fact of his having been wounded sufficiently established by the testimony, and that the absence of his name from the returns may probably be accounted for by the fact of his having been taken prisoner. The papers marked A, B, C, and D, are referred to and made part of this report ; and the committee present a bill for the relief of the petitioner.

Ritchie & Heiss, print.

SAMUEL GRAVES.

[To accompany bill H. R. No. 617.]

JANUARY 30, 1847.

Mr. Stanton, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the petition of Samuel Graves for a pension, respectfully report:

The petitioner was wounded while serving as a pilot on board the United States sloop-of-war Eagle, on Lake Champlain, in June, 1813. The Commissioner of Pensions refused to place his name upon the pension list because of the petitioner's delay in making his application, and because his name is not found on the return of the wounded.

The committee think the fact of his having been wounded sufficiently established by the testimony, and that the absence of his name from the return may probably be accounted for by the fact of his having been taken prisoner. The papers marked A, B, C, and D, are referred to and made part of this report; and the committee present a bill for the relief of the petitioner.

Rieble & Hells, print.

STEPHEN CHAMPLIN.

[To accompany bill H. R. No. 618.]

JANUARY 20, 1847.

Mr. JAMES THOMPSON, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the memorial of Stephen Champlin, a commander in the navy of the United States, respectfully report:

That it appears that Commander Champlin, while a lieutenant in the navy, and in command of the United States schooner "Tigress," on lake Huron, was very severely wounded by a canister shot, received on the 3d of September, 1814, in an engagement with the enemy. For this injury he was pensioned at the rate of \$20 per month, and which rate of pension he received till 1838, when he was promoted to his present rank, when, by order of the department, his pension was reduced one-half; and at this reduced rate it was paid till 1844, when, in common with all pensions received by officers in service, it ceased by law. The memorialist claims the amount thus deducted from his original rate of pension; and your committee, after a full consideration of the subject, deem his claim not only equitable, but supported by law and the uniform usage of the department in similar cases. The authority under which the memorialist was pensioned is contained in the 8th section of the act of 23d of April, 1800, entitled "An act for the better government of the navy," which grants a pension to "every officer, seaman, or marine, disabled in the line of his duty," and which pension is therein granted "*for life, or during his disability*," according "to the nature and degree of his disability, not exceeding one-half his monthly pay." In order to grade the amount of pension thus conferred, your committee have ascertained that the Navy Department have, by its regulation, been governed by the report of two medical officers, delegated to examine into the extent of the injury sustained by the claimant for a pension; that such an examination and report were made in relation to the wound received by Commander Champlin nearly twenty two years after it was inflicted, and that then its severity was such as to be the source of great suffering, and to require daily surgical attention; and such the committee learn is still the condition of the injury sustained by the memorialist. To lessen the rate of pension thus fixed, upon prescribed testimony, it appears to your committee obviously just and proper that the department should act upon some analogous proof that the relative disability had decreased; and this

they find has been the usage of the department. In the case under consideration, this practice, however, was not acted on. Commander Champlin's pension was reduced, not because the department had any proof whatever that his disability had lessened, but simply on the ground of his promotion to his present rank. The committee have had before them an accurate list of all the officers of the navy and marine corps who were in the receipt of pensions for disabilities while in service; among these officers are several who were, like Commander Champlin, promoted to his own, and even to a higher rank. In no instance, however, does it appear that any other officer, excepting the memorialist, suffered a reduction of his pension on account of his promotion; and the committee feel assured there is no officer of the service in the receipt of a pension who was, by gallantry and good conduct, more entitled to it than Commander Champlin; and few, if any, whose wounds, received in support of the national interest and honor, were so severe and permanent. Under the orders of Commodore Perry, he was the first to bring his vessel into action in the memorable battle fought under the command of that distinguished officer, in 1813, on lake Erie. His eminent gallantry and conduct on that occasion were highly commended in the official report of his commanding officer, and are now subjects of historical record; and subsequently, at the time he received the wound for which he was pensioned, he was sustaining the honor of his country's flag in conflict with the enemy. The committee therefore beg leave to report the accompanying bill for his relief.

the 3d of September, 1813, in an engagement with the enemy. For this injury he was pensioned at the rate of \$20 per month, and which rate of pension he received till 1835, when he was promoted to his present rank, when, by order of the department, his pension was reduced one-half; and at this reduced rate it was paid till 1841, when, in compliance with all pensions received by officers in service, it ceased by law. The memorialist claims the amount then deducted from his original rate of pension; and your committee, after a full consideration of the subject, deem his claim not only equitable, but supported by law and the uniform usage of the department in similar cases. The authority under which the memorialist was pensioned is contained in the 6th section of the act of 23d of April, 1806, entitled "An act for the better government of the navy," which grants a pension to "every officer, seaman, or mariner, disabled in the line of his duty," and which pension is therein granted "for life, or during his disability," according "to the nature and degree of his disability, not exceeding one-half his monthly pay." In order to grade the amount of pension thus conferred, your committee have ascertained that the Navy Department have, by its regulation, been governed by the report of two medical officers, delegated to examine into the extent of the injury sustained by the claimant for a pension; that such an examination and report were made in relation to the wound received by Commander Champlin nearly twenty-two years after it was inflicted, and that his severity was such as to be the source of great suffering, and to require daily surgical attention; and such the committee learn is still the condition of the injury sustained by the memorialist. To lessen the rate of pension thus fixed, upon prescribed testimony, it appears to your committee obviously just and proper that the department should act upon some analogous proof that the relative disability had decreased; and this

JOSEPH BRYAN.

[To accompany bill H. R. No. 620.]

JANUARY 20, 1847.

Mr. T. B. KING, from the Committee on Naval Affairs, made the following

REPORT :

The Committee on Naval Affairs, to whom was referred the memorial of Joseph Bryan, report :

That the memorialist was purser of the United States ship Ontario in the year 1839, then under the command of the late Commander J. D Williamson, and lying in the port of Pensacola. The ship being ordered, in the latter part of September of that year, to proceed to Nassau, New Providence, by Commodore Shubrick, on special duty, Purser Bryan being at that time in the hospital at Pensacola, suffering from a severe attack of fever, was unable to assume his duties on board, and Captain Williamson therefore took charge of the money and stores on board, and directed a Mr. L. Tooker, his clerk, to attend temporarily to the duties of purser, under his supervision, until the return of the vessel, leaving Mr. Bryan at the Pensacola hospital when he sailed.

Captain Williamson, when arrived at his place of destination, found the character of the investigations about to be instituted against Mr. George Huyler, the American consul, to be such that he did not deem himself justified to conduct an examination of the case on board of his vessel, and without legal advice, and therefore engaged a room in the town, and employed counsel to carry out the object of his instructions, as he understood them.

Upon the close of these proceedings, Captain Williamson directed his clerk to pay, from the moneys on board, the expenses that had been incurred for counsel fees and room hire, amounting to \$282, receipts being taken in the name of, and as if paid by Purser Bryan, and affixed his approval to the bills. After the return of the Ontario to Pensacola, these bills, with others, were handed to Purser Bryan by Captain Williamson, and represented as being for necessary disbursements for the ship, which he had to make during his absence, and whilst at Nassau.

When the accounts of Purser Bryan were subsequently settled by the accounting officers of the treasury, these disbursements at Nassau were not allowed him, after having been duly referred to the Navy and State Departments by the Auditor.

The committee deem it unnecessary to examine into the merits of this case, as it regards the propriety of Captain Williamson to make these payments from the moneys for which Purser Bryan was held accountable, and

have no reason to suppose that he acted otherwise than from a conviction that what he did was necessary and proper to carry out his instructions. If there was an error in the procedure on the part of Captain Williamson, it would not be just to hold Purser Bryan responsible for it, and allow him to suffer loss, as he was absent from the ship, and therefore unconscious of the actions of his commanding officer, who had assumed the entire direction of his business.

The committee, after due deliberation, are of opinion that the payments thus made by Captain Williamson, in the name and during the absence of Purser Bryan, and from the moneys for which he alone was responsible, should be allowed him. They therefore report a bill accordingly, and recommend its passage.

Mr. T. B. Kline, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the memorial of Joseph Bryan, report:

That the memorialist was purser of the United States ship Ontario in the year 1853, then under the command of the late Commander J. D. Williamson, and lying in the port of Pensacola. The ship being ordered, in the latter part of September of that year, to proceed to Nassau, New Providence, by Commodore Shubrick, on special duty, Purser Bryan being at that time in the hospital at Pensacola, suffering from a severe attack of fever, was unable to assume his duties on board, and Captain Williamson therefore took charge of the money and stores on board, and directed a Mr. L. Tooker, his clerk, to attend temporarily to the duties of purser, under his supervision, until the return of the vessel, leaving Mr. Bryan at the Pensacola hospital when he sailed.

Captain Williamson, when arrived at his place of destination, found the character of the investigations about to be instituted against Mr. George Hayler, the American consul, to be such that he did not deem himself justified to conduct an examination of the case on board of his vessel, and without legal advice, and therefore engaged a room in the town, and employed counsel to carry out the object of his instructions, as he understood them.

Upon the close of these proceedings, Captain Williamson directed his clerk to pay, from the moneys on board, the expenses that had been incurred for counsel fees and room hire, amounting to \$382, receipts being taken in the name of, and as if paid by Purser Bryan, and affixed his approval to the bills. After the return of the Ontario to Pensacola, these bills, with others, were handed to Purser Bryan by Captain Williamson, and represented as being for necessary disbursements for the ship, which he had to make during his absence, and whilst at Nassau.

When the accounts of Purser Bryan were subsequently settled by the accounting officers of the treasury, these disbursements at Nassau were not allowed him, after having been duly referred to the Navy and State Departments by the Auditor.

The committee deem it unnecessary to examine into the merits of this case, as it regards the propriety of Captain Williamson to make these payments from the moneys for which Purser Bryan was held accountable, and

URIAH BROWN.

[To accompany bill H. R. No. 621.]

JANUARY 20, 1847.

Mr. HAMLIN, from the Committee on Naval Affairs, made the following

REPORT :

The Committee on Naval Affairs, to whom was referred the memorial of Uriah Brown, with accompanying papers, relative to a system of sea-coast and harbor defence of the United States, by means of "impregnable and irresistible fire-ships," report :

That, upon examination of the whole subject, it appears that the merits of this invention have, in several instances, heretofore been fully investigated and treated upon by the Committee on Naval Affairs, and has been highly recommended by the Navy and Engineer departments, as well as by gentlemen of deserved scientific reputation. The Committee on Naval Affairs, in 1836, made a full report upon the merits of this system of defence, and it has at all times met the approbation of that committee whenever an examination of the same has been made. The report of 1836 is subjoined, and, with accompanying papers, is made a part of this report.

"MARCH 24, 1836.

"Mr. JARVIS, from the Committee on Naval Affairs, to whom was referred the memorial of Uriah Brown, relative to 'a system of defence for the bays and harbors of the United States by means of impregnable and irresistible fire-ships,' report :

"That they have examined carefully, and with much interest, the subject referred to their consideration. It appears, that during the late war with Great Britain, the inventive powers of Mr. Brown were directed to the construction of a steam-vessel which should be proof against cannon shot, and from which, by means of an ejecting apparatus of great power, there should be thrown upon the ships of the enemy a liquid fire, possessing the property of being nourished instead of being extinguished by the application of water. Several satisfactory experiments of the efficacy of the fire were made in the presence of a vast concourse of the citizens of Baltimore, and a model of the boat was examined by a number of eminent citizens, by officers of the army and navy, naval architects and civil engineers, by whom the project was recommended to the patronage of the

Ritchie & Heiss, print.

citizens of Baltimore as 'presenting, in all probability, the means of insuring to their waters an absolute exemption from the hostile visits of the enemy's ships.' A subscription was accordingly opened for the purpose of procuring the necessary funds for the construction of one of these machines; a sum nearly sufficient was subscribed in Baltimore, and one would have been built if the return of peace had not, in the opinion of many of the subscribers, rendered the expenditure unnecessary.

"The merits of this invention have heretofore occupied the attention of the House of Representatives and of this committee. On the 6th of December, 1814, the memorial of Uriah Brown was, by an order of the House of Representatives, referred to the Secretary of the Navy, who made a favorable report on the 23d of the same month. On the 23d February, 1827, the Secretary of War transmitted to the House a report from the chief engineer, and another from General Bernard, both of which are favorable to the invention. On the 28th of March, 1828, the Committee on Naval Affairs, having examined the system, recommended that experiments should be made to test its practical utility for harbor and coast defence, and reported a bill, which did not receive the final action of the House. The same committee had the subject again under consideration during the last session of Congress, and were only prevented from making a favorable report by the advanced stage of the session.

"The committee concur with their predecessors, and with the Engineer and Navy departments, in the favorable opinions they have expressed with regard to this invention, and they earnestly recommend that the necessary experiments should be made for testing its practical utility. If the result should be successful, an economical and invaluable element in our system of coast defence would be acquired, which, though it would not supersede the necessity of ships and fortifications, would, united with them, render us perfectly secure from any hostile attack upon our shores. The sum required for the experiment, according to a detailed estimate furnished by Mr. Brown, would be eight thousand dollars, of which rather more than six thousand dollars would be necessary for testing the security of the vessel against cannon shot, and the balance for testing the efficacy of the liquid fire; a sum utterly insignificant when we consider the great national benefits which may be derived from its expenditure.

"Your committee, therefore, report a bill authorizing the President of the United States to cause experiments to be made which shall test the practicability and utility of the fire-ship invented by Uriah Brown."

The whole purpose of your committee might be accomplished by submitting the report of 1836; yet it may be added, that from an inspection of the models and drawings submitted by Mr. Brown, it appears to them manifest that a vessel built upon the plan proposed would be entirely secure against the effects of cannon shot, the machinery and crew protected from danger, and capable of approaching an enemy's ships in safety within the proper range of the inflammable liquid with which she would be armed. These desiderata would, in their opinion, be mainly attainable by reason of the peculiar figure of the vessel, and the principles upon which she is constructed, being predicated upon the well-established laws of the composition and resolution of forces, viz: that the force of a body striking or acting obliquely against a plane surface is to the same as if it had acted perpendicularly, as the sine of incidence to radius. It is pro-

posed to build the vessel of great strength, and of such a figure as to present to the line of an enemy's fire, in all directions, the appearance of a wedge, the acute angle of which is formed at or near the water's edge by the meeting of corresponding inclined planes, composing the sides and circular ends of the deck and lower parts of the vessel, (a horizontal plane forming the centre and top of the deck,) and presenting in no part of her surface an angle of more than 18 or 20 degrees to the *point blank* line of an enemy's fire; in consequence of which, shot or shells of any description will rebound or *ricochet* from her surface, without producing any material injury to the vessel, crew, or machinery—all being under the cover of the deck planes. Through the central or horizontal plane of the deck all the hatchways and other necessary openings are to be formed and rendered secure, in time of action, by strong iron gratings. Ball-proof iron observatories are also to be erected on the horizontal deck plane, provided with starred loop-holes, through which the observer within may safely examine surrounding objects without, and direct the course of the vessel. The inflammable liquid discovered by Mr. Brown is also to be projected upon the enemy's ships through appropriate apertures. The inventor proposes to construct the vessel entirely of iron—in length about two hundred and fifty feet, and in breadth about sixty feet, and to propel her by means of submerged wheels, with a necessary steam power. She is to be provided with portable bulwarks erected on deck to protect the crew, &c., against a heavy sea. These can be readily detached and removed below when preparing for action.

The proof exhibited by Mr. Brown appears to be sufficient to warrant the belief that he has discovered and reduced to the test of experiment a liquid fire, which is capable of being projected upon the ships of an enemy from the interior of the vessel, and thereby causing their destruction. No reason can be seen why such a vessel, with such means, may not be as well used in an offensive warfare as in coast and harbor defence; and if so, might be of service in prosecuting our present war with Mexico.

From the evidence offered by Mr. Brown, all tending strongly to establish the belief of a successful result, and thereby securing an element of inestimable value, as an auxiliary to our fleets and fortifications, your committee concur in recommending that experiments shall be made for testing fully the utility of the invention. They ask leave to report a bill, herewith submitted.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of Uriah Brown most respectfully representeth, that at this momentous period, when the undivided resources and efforts of a powerful and vindictive enemy are directed to the annihilation of our happy republic; when his numerous ships of war are investing our sea-ports, and making a common rendezvous of our bays and rivers; when even now his hostile fleets have undisputed command of some of our important inland waters, and are daily sending marauding parties on shore, whose ravages, devastations, and wanton cruelties, cry aloud to Heaven and our country for vengeance; at such a crisis, it is the imperious

duty of every citizen to rally around the standard of his country, and to devote his talents and best services to its defence. It is also (as your memorialist humbly conceives) incumbent on the representatives of a free people, whose liberties are thus menaced, jealous of their rights, and watchful of their interests, to concentrate the inventive genius of the nation, and, by suitable encouragement, direct its efforts to the common good. This policy, your memorialist has the highest satisfaction in observing, has been partially adopted, with the most liberal appropriation by your honorable body, in a recent instance at New York. That your memorialist has devoted two years of his life to the invention and completion of a *system of annoyance of the enemy by land and water*; and having at length, after struggling with numerous difficulties, perfected it to his own satisfaction, is now ready, if the means be furnished, to embark his life in carrying it into effect. He has submitted his plan to many ingenious and scientific gentlemen, who unhesitatingly gave their opinion that it was calculated, at the least expense, to expel from our waters our present hostile and predatory invaders.

Your memorialist now, therefore, most respectfully solicits your honorable body to appoint a committee to investigate the merits of his system, to whom he may fully explain its principles and prove its utility; and he confidently looks to your honorable body for that encouragement to which, after investigation, he may be found entitled.

All which is very respectfully submitted.

URIAH BROWN.

WASHINGTON CITY, *December 4, 1814.*

WASHINGTON, *July 28, 1846.*

I have seen Mr. Uriah Brown's drawings, and heard his explanations thereof, which appear to be based upon sound principles. If such an engine of defence as Mr. Brown's "Navis Conflagrator" is attainable, the value of the invention to the United States is beyond price. I therefore recommend a liberal appropriation out of the naval fund, to test by actual experiment, under the direction of competent judges, the power and practicability of Mr. Brown's invention.

THOS. AP C. JONES,
Captain U. S. Navy.

Documents accompanying the report of 1836.

A committee having been requested by Mr. Brown to examine his mode of harbor defence, met at the Mayor's office on Saturday, the 1st instant, and made the following report:

Mr. Uriah Brown having made several experiments in the presence of a vast concourse of citizens of Baltimore, showing *satisfactorily* the practicability of communicating fire to ships of war, we, the subscribers, having been requested by Mr. Brown to examine the model of a boat to be propelled by steam, and to resist the fire of an enemy, have according-

ly examined the same, and respectfully offer an opinion to the public on the subject.

It is impossible, perhaps, to decide with absolute certainty upon the success of any such project before the trial has been made; but it appears to us that both the boat and the mode of applying the fire afford the strongest grounds for believing that it will *effectually* answer the purpose; and we recommend the project to the patronage of the citizens of Baltimore, as presenting, in all probability, the means of insuring the waters of our vicinity an absolute exemption from the hostile visits of the enemy's ships.

EDWARD JOHNSON, *Mayor of the city of Baltimore.*

WM. H. WINDER, *Brig. Gen. U. S. Army.*

C. DESHON, *Merchant.*

R. T. SPENCE, *Post Captain U. S. Navy.*

JAMES MOSHER, *President of the Mechanics' Bank.*

JOHN DAVIS, *Civil Engineer.*

WM. STEWART, *Colonel U. S. Army.*

JOHN SNYDER, *Merchant.*

J. H. NICHOLSON, *Judge U. S. District Court.*

TIMOTHY GARDNER, *Sea Captain.*

THORNDIKE CHASE, *Pres. of the Mer. Bank of Balt.*

WM. PECHIN, *Editor of the American Daily Advertiser.*

T. SHEPHARD, *Merchant.*

WILLIAM FLANIGAN, *Naval Architect, &c.*

JAMES CORDERY, *do. do.*

WILLIAM PARSONS, *do. do.*

BALTIMORE, *July 3, 1814.*

Personally appeared before me, H. W. Bool, jr., of the city of Baltimore, who deposeth that the above is a true copy from the files of the American Daily Advertiser, published in this city now, and was at the above date. This copy was read by William Bose, one of the editors, the whole of which was copied by this deponent.

H. W. BOOL, Jr.

BALTIMORE, *January 11, 1817.*

Sworn and subscribed before me, this 11th day of January, 1827.

WM. A. SCHAEFFER,

Justice of the Peace in and for the city aforesaid.

CLERK'S OFFICE, HOUSE OF REPS. U. S.,

March 29, 1827.

I certify that the foregoing is truly copied from the original now on the files of this office.

S. BURCH, *Chief Clerk,*

Office of House of Representatives United States.

NAVY DEPARTMENT,

December 23, 1814.

SIR: In obedience to an order of the honorable the House of Representatives, of the 6th instant, referring the memorial of Uriah Brown, "and

such part thereof as relates to operations on the water," to the Secretary of the Navy, I have the honor to report :

That the system of annoyance presented by Uriah Brown appears to combine principles of science distinct in their nature, and which may be classed under the following heads :

1st. The construction, capacity, and stability of the vessel for the purposes proposed.

2d. The power of the machinery for propelling, and the security of the enginery for ejecting the inflammable fluid successfully to its object.

3d. The efficacy of the whole system, and its probable effects on the enemy's vessels in our waters.

First. The construction of the vessel of a sufficient thickness to render it impervious to the shot of an enemy, of a capacity to contain the whole machinery, with men, fuel, &c., and covered with sheet iron to prevent combustion, appears well calculated, upon the principles of an inclined plane, to reflect shot at any possible angle at which they can be fired from a ship to be assailed ; and, upon the well-known principles of *ricochet* firing, if a ball be fired and impinge on a plane of oak timber, at an angle of about forty-five degrees, it will be reflected at nearly the same angle as the angle of incidence, and will continue to rebound until its force is overcome by its gravity and the resistance of the atmosphere.

The guns of a ship-of-war cannot be depressed more than ten, or at most twelve degrees, which angle, meeting the approaching vessel at any point, cannot penetrate the mass of wood and iron so as to endanger her safety or impede her progress ; and the means of defence are ample to defeat an attempt at boarding with armed boats, and to destroy those who may be in them.

Second. The power of the machinery for propelling, and the security of the engine works within the vessel for ejecting the inflammable fluid. The propelling power by steam is practically known. The security from injury by the shot of an enemy's ship is clearly demonstrated in the plan and drawings ; while the rapidity of approach by steam at the rate of five miles an hour, and the low surface presented to the enemy's fire, lessen the chances of any one shot taking effect injuriously ; while this vessel, pursuing her course in the night, or approaching an enemy in a calm, and choosing the point of attack, combines more advantages than any other plan, in proportion to the expense, that has been offered to the Navy Department.

Third. The efficacy of the whole system, and probability of success in operating against the enemy's vessels. As respects the security of the machinery in connexion with the power necessary to effectual operation, the care of the artist, the solidity of the workmanship, and a thorough knowledge of its principles, are all so essential, that the operator must combine the talents and mechanical knowledge to direct and decide these important points for self-preservation.

The experiment having been recently made, in the presence of thousands, of the irresistible power of Mr. Brown's liquid fire, to envelope in flames any combustible object at which it is directed, appears to have produced conviction of its efficacy.

I humbly conceive that it may be successfully applied to drive the enemy from our bays and harbors ; and more particularly on the lakes it may be the means of obtaining our absolute ascendancy.

Should Congress, in their wisdom, patronize the attempt, the result would probably justify the means and the expense.

All which is respectfully submitted.

I have the honor to be, very respectfully, sir, your obedient servant,

BENJAMIN HOMANS,
Acting Secretary of the Navy.

The Hon. the SPEAKER

Of the House of Representatives.

CLERK'S OFFICE, HOUSE OF REPS. U. S.,

March 29, 1827.

I certify that the foregoing is truly copied from the original on the files of this office.

S. BURCH,

Chief Clerk, H. R. U. S.

WAR DEPARTMENT, February 3, 1827.

SIR: In relation to the subject of the order passed by the House of Representatives on the 29th of December last, directing "that so much of the petition of Uriah Brown, this day presented, as relates to his system of the annoyance and destruction of an enemy on the land, be referred to the Secretary of War, to report his opinion thereupon to the House," I have the honor to transmit, herewith, a report of this date from the chief engineer, and another from Brigadier General Bernard, dated the 25th of December last;

And am, very respectfully, sir, your obedient servant,

JAMES BARBOUR.

Hon. JOHN W. TAYLOR,

Speaker of the House of Representatives, Washington.

CLERK'S OFFICE, HOUSE OF REPS. U. S.

March 29, 1827.

I certify that the foregoing is truly copied from the original on the files of this office.

S. BURCH, *Chief Clerk.*

The following estimate exhibits the probable expense of testing by experiment the efficiency of the liquid fire discovered by the undersigned.

Cost of ingredients for the necessary quantity of the inflammable liquid	\$1,000
Cost of a proper engine for projecting the same upon the object to be destroyed	1,500
Cost of adjutage pipes, stop-cocks, cast-iron, copper, and leaden pipes, safety valves, &c.	650
Cost of copper and iron tanks, reservoirs, retorts, and other apparatus for a laboratory	1,500

Cost of rent, altering and fitting up a building suitable for a laboratory, or for constructing a temporary building for the purpose upon the land, or for preparing the like arrangements for operations upon the water	\$600
Cost of materials for enclosing a laboratory and target upon the land with a high plank fence, including a sufficient area of ground (say 150,000 feet) for safe and effectual operations	400
Cost of materials for constructing a suitable target upon the land, including masts, topmasts, spars, stays, ropes, sails, and other rigging and appendages, or for the purchase of an old vessel upon which to project the liquid from a floating laboratory, say	2,000
Cost of labor in the various operations as above, including masonry for laboratory, and preparing for and conducting the experiment	750
Cost of freight and transportation of machinery and materials, travelling expenses, &c.	500
Cost of other contingent and incidental expenses, say	1,100
	10,000

URIAH BROWN.

WASHINGTON CITY, December 21, 1846.

ENGINEER DEPARTMENT,

Washington, February 3, 1827.

SIR: In compliance with your instructions to me, given under the order of the House of Representatives of the 29th of December last, directing "that so much of the petition of Uriah Brown, this day presented, as relates to his system of annoyance and destruction of an enemy on the land, be referred to the Secretary of War, to report his opinion thereupon to the House," I have examined Mr. Brown's project of a fire-ship, called the "Navis Conflagrator," a description of which will be found in the enclosed paper, marked A, and am of opinion that the principles upon which it is founded are correct; but how far it may be practicable to put into operation such a machine, can only be determined by experiment.

Should experiment result in a favorable exhibition of the practical powers of the machine, I have no doubt it would, in the hands of skilful and brave men, prove a very valuable auxiliary in the defence of ports, harbors, and anchorages.

As far as I am informed, the invention of Mr. Brown is new; and if an experiment could be made without involving too great expense, of which I have no means of forming an estimate, I would recommend that it should be made.

I return Mr. Brown's petition to Congress, with the drawings and other papers relating to the subject of it, which were referred to me;

And am, with great respect, your obedient servant,

ALEXANDER MACOMB,

Maj. Gen., Chief Engineer.

Hon. JAMES BARBOUR,

Secretary of War.

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES U. S.,
March 26, 1827.

I certify that the foregoing is truly copied from the original, now on file in this office.

MW. ST. CLAIR CLARKE,
Clerk House of Representatives U. S.

WASHINGTON CITY, December 25, 1826.

I have examined the plan of Mr. Uriah Brown, having for its object to communicate fire to ships of war.

It seems to me that this plan combines strength of construction against an enemy's shot, with security to the propelling engine, destined to reach within the proper range of the incendiary liquid.

I believe that Mr. Brown's plan offers fair chances of success; and, should experiments prove its efficiency, I believe that it might become a very valuable auxiliary in the defence of our harbors and open bays.

BERNARD, *Brigadier General.*

I fully concur in the foregoing opinion of General Bernard.

A. PARTRIDGE.

On the 29th of December, 1826, Captain Partridge, Principal of the American Literary, Scientific, and Military Academy, at Middletown, Connecticut, who was on a visit to this city with his pupils, delivered a lecture on *National Defence*, in the Hall of the House of Representatives, to a numerous and highly respectable audience. The following is an extract from his lecture, as published in the *National Intelligencer*:

"In addition, and in connexion with land batteries, he recommended floating batteries and fire-ships, as preferable in point of utility and economy for the defence of our bays, rivers, and harbors. He said it was impossible to defend every assailable point that an enemy might attack with a movable force; and, therefore, recommended a similar force, calculated to arrest his progress. He remarked that the powerful effects produced by the Greek fire-ships upon the Turkish navy had been made apparent by repeated trials; that they are calculated to strike terror into an enemy.

"Connected with fortifications, he said, steam frigates, floating batteries, and fire-ships, the latter as lately improved by Mr. Uriah Brown, of Baltimore, constituted a system of defence to be relied on for defensive and offensive operations within our own waters. He had examined Mr. Brown's plan, and had no hesitation in joining his opinion to that of others—men every way qualified to decide on a subject of so much importance to the nation. This gentleman had submitted a memorial to the House of Representatives, requesting that the subject might be taken into consideration.

"Experiment, the great test of all inventions, had proved that this plan was susceptible of the utmost utility as a means of coast and harbor defence. It had been submitted to the examination and investigation of

many scientific men of great repute, who had pronounced an unequivocal opinion in favor of its utility.

"The plan of this vessel was predicated on the principle of inclined planes, and calculated to resist the shot of an enemy by reflecting them at any and every angle at which they might be directed by the ship to be assailed. The size of the vessel was calculated to be one hundred and twenty-five feet in length, and fifty in breadth; to be propelled by steam power.

"The inflammable liquid matter, ejected from this machine by means of steam, or any other adequate power, was calculated to operate with complete effect upon any combustible material at a distance of two hundred yards, and instantly to envelope in inextinguishable flames any vessel subjected to its operation. A shot striking this body would *ricochet* or rebound so as to do no injury to the machine or vessel; and the probability was, that, from the low surface presented to the enemy's fire, not one shot in three hundred would take effect.

"Captain P. said he felt fully satisfied in his own mind that this system of auxiliary defence was capable of great utility, perhaps of some improvement, and certainly worthy of the notice and attention of those to whom the defence and protection of this nation were intrusted."

WASHINGTON, *February 7, 1829.*

SIR: In answer to your inquiries, I would observe, that I have carefully and minutely examined the model of a fire-ship invented by Uriah Brown, esq., for the purpose of seacoast and harbor defence, and am perfectly satisfied of the following facts, viz:

1st. That in consequence of the inclination of the several planes composing this vessel, every shot striking upon any part of it, whether fired from a ship of the line or smaller vessel, will be reflected off without producing any injury.

2d. That the vessel can be propelled by the power of steam, with a velocity equal to that of our swiftest steamboats, and with as much certainty, her power consisting of two engines of one hundred horse-power each.

3d. That the inflammable liquid can be projected to a sufficient distance to insure the destruction of any vessel attacked, without hazard to the fire-ship or her crew: there is no doubt it can be projected at least three hundred feet, and most probably more than five hundred feet.

4th. This vessel cannot be taken by the boats of an enemy's squadron, because the crew, the machinery, and the means of steering her, are all below deck, and therefore getting possession of the deck does not give possession of the vessel. All those who would attempt to board her would either be destroyed by the liquid fire, hot water from the boiler, or become prisoners themselves, instead of becoming masters of the vessel, at the option of the commander of the fire-ship.

5th. It is better calculated than our best steamboats to live in a rough sea, being two hundred feet in length, seventy-five feet in breadth, and of great strength, the side being two feet thick, of solid oak timber, fastened by strong iron bolts.

6th. It cannot be set on fire, as it is proposed to cover every part exposed with thick sheet iron.

7th. Simple and efficient means are devised for ventilating it, and also for discovering the direction of, and measuring the distance from, the object to be attacked; while the observer himself is below deck, and entirely safe from the enemy's fire.

8th. That the inflammable liquid will instantly set on fire any combustible substance on which it strikes, is proved by repeated experiments made in Baltimore, in 1814, in the presence of the city authorities and thousands of the citizens.

9th. The machinery, as well as the crew, is, in my opinion, better protected from the fire of an enemy in this vessel, than in the steam vessel built at New York, during the war, and which has met the decided approbation of the government. I have examined the model in company with a large number of gentlemen, well qualified to judge, and do not recollect one who, after such examination, did not express himself satisfied that it would answer every purpose proposed by the projector. With so much probability, then, in its favor, I would ask whether Congress would not be fully warranted in appropriating the small sum of eight thousand dollars, which is all the projector asks, to make such experiments as will remove all doubts on the subject? for, should the opinions which have been formed of it be confirmed by such experiments, I presume there is no one who will deny that it would be the cheapest and most efficient means of harbor and seacoast defence that have ever been devised in any age of the world. A single vessel, stationed in any one of our bays or harbors, would keep it entirely clear of an enemy's ships, or would raise a blockade, should that be attempted.

I am, very respectfully, sir,

Your obedient servant,

A. PARTRIDGE.

HON. JOHN C. WEEMS,

House of Representatives.

WASHINGTON, January 12, 1835.

SIR: The House of Representatives having, by a resolution of the 2d instant, "instructed the Committee on Naval Affairs to inquire into the expediency of reporting a bill authorizing the President of the United States to cause such experiments to be made, by a board of engineers, to be by him selected, as shall test the practical utility of a fire-ship, invented by Uriah Brown, for harbor and coast defence, and making the necessary appropriation for that purpose," I do myself the honor to lay before the committee sundry official reports and documents in support of the invention, accompanied by a specification, drawings, and estimates of the cost of building, and the annual expense of maintaining in actual service, in time of war, a vessel upon the plan proposed. I have the honor, also, to submit to the committee a brief history of the invention, and the motives which have induced me, once more, to solicit the attention of my government to this interesting subject.

During the late war with Great Britain, apprehending serious consequences might result to us from the formidable maritime strength of the enemy, my attention was early directed to the subject of devising some new mode of warfare, by which I hoped that greater equality might be

produced in the hostile power of belligerent nations, and the strong deprived of the means of longer committing wanton aggressions upon the legitimate rights of the feeble.

I had often indulged the belief that the long lost secret of preparing the celebrated *Greek fire* might again be recovered; and that, by its adaptation to a steam-vessel, so constructed as to be invulnerable to cannon-shot, an engine of war might be produced, possessing irresistible powers of annoyance, and defying any known means of assault.

Actuated by this conviction, and an anxious desire to benefit my native country, I immediately commenced a series of expensive and highly interesting experiments, having for their end the attainment of this important object.

In the course of these investigations, I had the satisfaction to meet with a success equaling my most sanguine expectations. The plan of a vessel was produced, in acknowledged accordance with the principles of nautical and military science, and admitted by all to be capable of resisting any attack from an enemy's squadron.

To test the efficient properties of the fire, experiments were made by me, upon an extensive scale, in the presence of thousands of the citizens of Baltimore, and such was the acknowledged conviction produced upon their minds, by the astonishing effects of this terrible agent of destruction, that all doubts of the complete practical success of the project were instantly dispelled—a large sum unhesitatingly subscribed, to build the proposed vessel, and nothing but the near prospect of peace arrested the progress of the enterprise.

This proposed system of defence has undergone the most scrutinizing investigation, and its practicability and utility sustained by several enlightened theorists and practical engineers. It has, on former occasions, been the subject of the deliberate consideration of the Secretary of the Navy, the Secretary of War, and of the Committee on Naval Affairs of the House of Representatives, by each of whom it has been viewed as of national importance, and supported by their approving reports, as will be seen by a reference to the accompanying documents.

I cannot refrain from expressing to your honorable committee, that twenty years' mature reflection upon the subject has only tended to establish my conviction as to the following facts:

That, with such a gigantic arm of power, we could, at a comparatively trifling expense, effectually defend our extensive water frontier against the combined navies of Europe.

That it would afford the sure means of keeping our bays and harbors constantly open to the free egress and ingress of our commerce, and thereby furnish our navy a better opportunity of protecting our trade and defending our national honor on the high seas.

Finally, that it would be found the cheapest and most formidable means of seacoast and harbor defence that has ever been devised in any age of the world; and that its moral influence upon our foreign relations could not fail in causing the most powerful nations to desire our friendship—the most unprincipled to respect our rights.

With such evidences of its utility and importance in our national defence, I respectfully solicit of your honorable committee (not for my present benefit) to turn your attention to this interesting subject, and take the measures necessary to bring my discovery to the test.

With the aid of eight thousand dollars—in the disbursement of which I desire no agency—I shall be able to test, by actual experiment, all the principles involved in the invention, and prove, by a public exhibition in the face of Congress and the country, the efficiency of my rediscovered *Greek fire* as an agent of destruction. I therefore respectfully solicit that a bill may be reported, appropriating eight thousand dollars, to be expended under the direction of such authority as you may be pleased to designate, in making the experiments as contemplated in the resolution. And I further solicit, that the Secretary of the Navy be directed, in said act, in case the board of engineers constituted for the purpose of superintending these experiments shall be satisfied of the practicability of the plan, to cause a vessel to be built upon the principles suggested—proof against cannon shot—for the purpose of conveying this destructive fluid, and throwing it upon an approaching enemy. And, so confident am I of the practicability of my plan, that I am prepared to hazard my life in a vessel built according to my direction, in destroying, by fire, any combustible floating object, though protected by *any* force or number of guns.

Having given the highest evidence of my own confidence which it is in the power of man to give, I fondly hope that the pittance necessary to put so important a matter to the test will at length be granted from an overflowing treasury, confident, as I am, that it will be the means of saving to our country millions of property and thousands of lives.

With sentiments of the highest consideration, I have the honor to be, sir, your obedient servant,

URIAH BROWN.

Hon. C. P. WHITE,

Ch'n of the Com. on Naval Affairs, H. R.

P. S.—I shall be happy to be indulged with an opportunity of appearing before your committee, for the purpose of illustrating more fully the principles of my invention, whenever it may best suit their convenience, and of which they may be pleased to notify me. I will also furnish them a model of the vessel, should that be desired.

U. B.

With the aid of eight thousand dollars—in the disbursement of which I desire no agency—I shall be able to test, by actual experiment, all the principles involved in the invention, and prove, by a public exhibition in the face of Congress and the country, the efficiency of my rediscovered Greek fire as an agent of destruction. I therefore respectfully solicit that a bill may be reported, appropriating eight thousand dollars, to be expended under the direction of such authority as you may be pleased to designate, in making the experiments as contemplated in the resolution. And I further solicit that the Secretary of the Navy be directed, in said act, in case the board of engineers constituted for the purpose of superintending these experiments shall be satisfied of the practicability of the plan, to cause a vessel to be built upon the principles suggested—proof against cannon shot—for the purpose of conveying this destructive fluid, and throwing it upon an approaching enemy. And, so confident am I of the practicability of my plan, that I am prepared to hazard my life in a vessel built according to my direction, in destroying, by fire, any combustible floating object, though protected by any force or number of guns.

Having given the highest evidence of my own confidence which it is in the power of man to give, I fondly hope that the pleasure necessary to put so important a matter to the test will at length be granted from an overflowing treasury, confident, as I am, that it will be the means of saving to our country millions of property and thousands of lives.

With sentiments of the highest consideration, I have the honor to be, sir, your obedient servant.

URIAH BROWN

Hon. C. P. White,

U. S. I shall be happy to be indulged with an opportunity of appearing before your committee, for the purpose of illustrating more fully the principles of my invention, whenever it may best suit their convenience, and of which they may be pleased to notify me. I will also furnish them a model of the vessel, should that be desired.

U. B.

That committee on the subject of the proposed bill, I have the honor to be, sir, your obedient servant.

U. B.

U. B.

U. B.

U. B.

U. B.

U. B.

U. B.

U. B.

U. B.

THOMAS COOPER—EXECUTOR OF.

[To accompany bill H. R. No. 625.]

JANUARY 20, 1847.

Mr. SEDDON, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom was referred the petition of M. H. De Leon, executor of Thomas Cooper, deceased, praying to have refunded a fine imposed on his testator, under the sedition law, report:

That from the evidence submitted with the said petition, it appears that in the month of April, 1800, at the city of Philadelphia, the said testator was indicted and found guilty of an alleged libel against John Adams, the then President of the United States, under the provisions of the act of Congress of the 14th July, 1798, commonly called the Sedition Law; and, on being convicted, was sentenced to pay a fine of four hundred dollars, and to be imprisoned for six months. The imprisonment was endured by him; and, on its termination, he was required to pay, and did actually pay, by means of a bill of exchange which he procured to be discounted, the fine in full. The second section of the aforesaid law, known as the sedition law, punished all persons who either themselves wrote, printed, uttered, or published, or procured to be written, printed, uttered, or published, or aided in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the government of the United States, or either House of Congress, or the President of the United States, with an intent to defame them, or either of them, or to bring them into contempt or disrepute, or to excite against them the hatred of the people of the United States, with a fine not exceeding two thousand dollars, and imprisonment not exceeding two years; and it was under this section that the said testator was convicted for the publication of an article criticising with severity the public character and official conduct of the then President of the United States.

It is well known that this whole act, and especially the section referred to, was, at the time, believed by many to be not only wholly contrariant to the genius of our people and the character of our free institutions, but also in conflict with the positive provisions of the constitution, and therefore entirely void. In the party struggles of the time, this act was presented prominently before the people of the Union, and the result was a very general conviction both of its impolicy and unconstitutionality. From this conviction the sentiment of the Union, it is confidently believed by this committee, has never since swerved; but, on the contrary, with every passing

year, has strengthened and extended, until now the popular mind has approximated to unanimity in reprobating the injustice and usurpation of power involved in the passage of the act. In this general opinion this committee fully concur; and believing that both justice and policy demand that reparation should be made to all who suffered under the penalties of that unconstitutional act, they report a bill refunding to the petitioner the fine paid by his testator, with interest.

JANUARY 20, 1847.

Mr. Sargent, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom was referred the petition of M. De Loon, executor of Thomas Cooper, deceased, praying to have refunded a fine imposed on his testator, under the sedition law, report:

That from the evidence submitted with the said petition, it appears that on the month of April, 1800, at the city of Philadelphia, the said testator was indicted and found guilty of an alleged libel against John Adams, then President of the United States, under the provisions of the act of Congress of the 14th July, 1798, commonly called the Sedition Law; and on being convicted, was sentenced to pay a fine of four hundred dollars, and to be imprisoned for six months. The imprisonment was endured by him; and on its termination, he was required to pay, and did actually pay, by means of a bill of exchange which he procured to be discounted, the fine in full. The second section of the aforesaid law, known as the sedition law, punished all persons who either themselves wrote, printed, uttered, or published, or procured to be written, printed, uttered, or published, or aided in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the government of the United States, or either House of Congress, or the President of the United States, with an intent to defame them, or to bring them into contempt, or to excite against them the hatred of the people of the United States, with a fine not exceeding two thousand dollars, and imprisonment not exceeding two years; and it was under this section that the said testator was convicted for the publication of an article circulating with severity the public character and official conduct of the then President of the United States.

It is well known that this whole act, and especially the section referred to, was, at the time, believed by many to be not only wholly contradictory to the genius of our people and the character of our free institutions, but also in conflict with the positive provisions of the constitution; and therefore entirely void. In the party struggles of the time, this act was passed prominently before the people of the Union, and the result was a very general conviction both of its impolicy and unconstitutionality. From this conviction the sentiment of the Union, it is confidently believed by this committee, has never since swerved; but, on the contrary, with every passing

FRANCOIS GRAMILLION—HEIRS OF.

[To accompany bill H. R. No. 626.]

JANUARY 20, 1847.

Mr. S. ADAMS, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of the widow and heirs of François Gramillion, make the following report:

The documentary testimony shows satisfactorily that François Gramillion, the ancestor of the petitioner, did, on or about the 11th day of December, 1815, and the 20th of January, 1816, purchase from Alexandre Plauché certain tracts or parcels of land, containing 20 arpents in front by 40 deep; and, further, that the said Plauché sold to Pierre Decuir a tract of $3\frac{1}{2}$ arpents front by 40 deep; that Decuir, by power of attorney to Martin Gramillion, sold the said land, so acquired, to one Villeneuve Gramillion, son of said François—so that the whole claim now belongs to the said widow and heirs of François Gramillion.

It is further shown that Plauché purchased from Julien Poydras de la Laud, Poydras from one Dufief, and Dufief from one Jacques Gaigneard; and the petitioners allege that in February, 1826, they had the land surveyed by one Kenneth McCrummen; that it was surveyed and located previous to any survey by the United States; that they have, and their assignees or persons under whom they hold, continually occupied the same since A. D. 1796, or thereabouts, and they now pray for a confirmation in accordance with the plat of February, 1826, accompanying their petition, with the boundaries designated.

This old survey, with the settlement of more than thirty years, considered in connexion with the regularly recorded sales already alluded to, coupled with the affidavits of Lemoine, Bordelon, and Coco, raises a strong presumption of the ancient purchase; and your committee believing that they ought to be confirmed to at least the quantity specified in their survey, say 17 arpents in front by a depth of 40—680 arpents—they report a bill accordingly.

Ruchie & Heiss, printers.

FRANÇOIS GRAMMILLON—HEIRS OF

JANUARY 20, 1847.

Mr. S. Adams, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of the widow and heirs of François Gramillon, make the following report:

The documentary testimony shows satisfactorily that François Gramillon, the ancestor of the petitioner, did, on or about the 11th day of December, 1817, and the 20th of January, 1818, purchase from Alexandre Planché certain tracts or parcels of land, containing 20 arpents in front by 40 deep; and, further, that the said Planché sold to Pierre Decur a tract of 3½ arpents front by 40 deep; that Decur, by power of attorney to Mar- tin Gramillon, sold the said land, so acquired, to one Villeneuve Gramillon, son of said François—so that the whole claim now belongs to the said widow and heirs of François Gramillon.

It is further shown that Planché purchased from Julien Poydras de la Land, Poydras from one Dufet, and Dufet from one Jacques Gaignard; and the petitioners allege that in February, 1826, they had the land surveyed by one Kenneth McGrimmen; that it was surveyed and located previous to any survey by the United States; that they have, and their assigns or persons under whom they hold, continually occupied the same since A. D. 1796, or thereabouts, and they now pray for a confirmation in accordance with the plat of February, 1826, accompanying their petition, with the boundaries designated.

This old survey, with the settlement of more than thirty years, considered in connexion with the regularly recorded sales already alluded to, coupled with the affidavits of Lemoiné, Bordelon, and Coco, raises a strong presumption of the ancient purchase; and your committee believing that they ought to be confirmed to at least the quantity specified in their survey, say 17 arpents in front by a depth of 40—680 arpents—they report a bill accordingly.

Richie & Heiss, printers.

PAPERS OF THOMAS JEFFERSON.

[To accompany bill H. R. No. 627.]

JANUARY 20, 1847.

Mr. BRODHEAD, from the Committee on the Library, made the following

REPORT:

The Joint Committee on the Library, to whom the memorial of Thomas Jefferson Randolph was referred, praying that Congress would purchase the manuscript papers of the late Thomas Jefferson, formerly President of the United States, and of which papers he, the said Thomas Jefferson Randolph, is the devisee and proprietor, have had the same under consideration, and beg leave to report:

That these papers consist, in part, of official, political, scientific, and miscellaneous letters, amounting, as it appears from a well kept and perfectly preserved journal in the handwriting of Mr. Jefferson himself, to the number of about forty-two thousand, many of which were written to and received from the most distinguished men of his time and country. Of the number written by himself, namely, about sixteen thousand, eight hundred only have been published in the printed volumes which are entitled "The Memoirs and Correspondence of Thomas Jefferson;" and these, as the committee understand, were not selected for publication because they were deemed the most interesting and valuable, but were so selected, in a great degree, upon other grounds.

Besides these letters, there are three thick quarto volumes of MSS., which are thus described by Mr. Jefferson in a paper in his own handwriting, to wit:

"Explanations of three volumes bound in marbled paper.

"In these three volumes will be found copies of the official opinions given in writing by me to General Washington, while I was Secretary of State, with sometimes the documents belonging to the case. Some of these are the rough draughts, some press copies, some fair ones. In the earlier part of my acting in that office, I took no other note of the passing transactions; but, after a while, I saw the importance of doing it, in aid of my memory. Very often, therefore, I made memorandums on loose scraps of paper taken out of my pocket in the moment, and laid by to be copied fair at leisure; which, however, they hardly ever were. These scraps, therefore, ragged, rubbed and scribbled as they were, I had bound with the others, by a binder who came into my cabinet, did it under my own eye, and without the opportunity of reading a single paper. At this day, (February

4th, 1818,) after the lapse of twenty-five years or more from their dates, I have given to the whole a calm revisal, when the passions of the time are passed away, and the reasons of the transactions act alone on the judgment. Some of the informations I had recorded are now cut out from the rest, because I have seen that they were incorrect or doubtful, or merely personal or private, with which we have nothing to do.

“TH. JEFFERSON.

“FEBRUARY 4, 1818.”

Of these volumes, thus described by Mr. Jefferson, it is understood by the committee that a portion, not exceeding sixty pages octavo, and having no higher interest than the rest, has heretofore been published.

In addition to the foregoing, the committee have received from the memorialist a long catalogue of other manuscript matter, connected more or less with the official position and duties of Mr. Jefferson—namely, his reports, with the materials upon which they were founded; notes of cabinet councils during his own administration of the government; papers relating to early treaties with France—revolutionary papers; some of which are marked by himself as “valuable,” and not elsewhere to be found, and much other matter of a scientific and miscellaneous character.

The arrangement of these manuscripts is chronological and systematic; and the condition, as exemplified by specimens presented to the committee, perfectly sound. A portion of them, and an inconsiderable portion only, as it is believed, has been published.

As the consequence of the extraordinary labor and system with which Mr. Jefferson appears, during the whole course of his long and active life, to have made and preserved a written record of every important matter to which his thoughts or his duties were directed, the manuscripts which are now offered to Congress are not only unexampled in the variety and volume, as compared with other manuscripts which have heretofore been offered, but correspond in all respects, as the committee have reason to believe, with the services, the stations, and the renown of their author. These manuscripts the memorialist informs the committee he is unable to publish on his own account, and is determined not to commit to the mutilation and caprice of others, who would undertake their publication with a view only to pecuniary profit. It is evident, therefore, that, between the inability of the memorialist on the one hand, and his rightful determination on the other to protect the character and the labors of his great ancestor from prejudice and public misuse, these valuable papers will be lost, or worse than lost, unless the government itself shall interpose to preserve them. This it has already done, as the committee think, in several other cases; but in no case did the necessity or the expediency of its action have stronger or better grounds than in the present one. The committee are therefore of opinion that—whether the precedents in similar cases, or the great volume, variety, or interest of the manuscripts themselves be considered, or whether the character and services of their illustrious author, and the deep and permanent influence over our doctrines and system of government, which have resulted, and will ever result, from his political opinions and acts, be taken into view—it is fit and right that the government should possess itself of all his unpublished papers, and thus forever preserve them against any danger of misapplication and loss.

To carry out these views the committee herewith report a bill.

JANE DEGRAFF—HEIR OF.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. ATKINSON, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Sarah Allen, having had the same under consideration, report :

The petition of Sarah Allen sets forth that she is the daughter of Michael Degraff, whom she represents to have been an officer of the United States in the revolutionary war ; that her mother, as widow of said Michael Degraff, was an applicant for a pension under the act of 4th July, 1836, but could never make out her claim to the satisfaction of the Commissioner of Pensions. She died on the 6th of March, 1843, never having received a pension. The petitioner, therefore, prays that she may receive from the United States so much as she supposes her mother ought to have received. Your committee are of opinion that if every allegation of the petitioner were true, she is not entitled to be placed on the pension list, or to receive any thing, either according to the laws of Congress or principles of justice.

Resolved, Therefore, that the petition of the said Sarah Allen be rejected.

SAMUEL FERGUSON.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Samuel Ferguson, claiming a pension for the services of his father, John Ferguson, in the revolutionary war, report:

There is no evidence of the length or character of the service of John Ferguson. He never was a pensioner. There is no evidence before the committee of the heirship of the applicant; and if there was, there is no law or precedent authorizing the grant of a pension to an heir in such a case.

The committee ask to be discharged from the further consideration of the subject.

Richie & Heiss, print.

HANNAH STEVENSON.

ADAH SMITH.

JANUARY 20, 1847.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made
the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Adah Smith, widow of James Smith, asking for a pension, having considered the same, report:

That there is no evidence whatever of the services of the husband in the revolutionary war; and the evidence to prove the marriage is insufficient.

The committee ask to be discharged from the further consideration of the subject.

Ritchie & Heiss, printers.

The committee ask to be discharged from the further consideration of the petition.

Ritchie & Heiss, printers.

ADAM SMITH.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Adam Smith, widow of James Smith, asking for a pension, having considered the same, report:

That there is no evidence whatever of the services of the husband in the revolutionary war; and the evidence to prove the marriage is insufficient.

The committee ask to be discharged from the further consideration of the subject.

Smith & Hays, printers.

HANNAH STEVENSON.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Hannah Stevenson, asking for a pension, having considered the same, report :

That the petitioner expressly admits she was married to the officer of the revolutionary army on account of whose services she claims a pension after 1st January, 1794, and in fact not till 1796. The principle of pensions in such cases is one of grace and not of right ; and when the applicants do not come within the rules and practice adopted either by law or established usage, there is no obligation to extend it to embrace them. Congress has refused heretofore to pass a law giving pensions to widows who were married after the 1st January, 1794. To do so by special law, in particular cases, would open the door to all widows married after that period ; and without inquiring into the justice or expediency of such a general law, applicable to all cases, the committee cannot consent to report favorably on special applications, in the absence of such a general provision by law.

The committee ask to be discharged from the further consideration of the petition.

Ritchie & Heiss, print.

HANNAH STEVENSON.

JANUARY 20, 1847.
Read, and laid upon the table.

Mr. BARRINGER, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Hannah Stevenson, asking for a pension, having considered the same, report:

That the petitioner expressly admits she was married to the officer of the revolutionary army on account of whose services she claims a pension after 1st January, 1794, and in fact not till 1796. The principle of pensions in such cases is one of grace and not of right; and when the applicants do not come within the rules and practice adopted either by law or established usage, there is no obligation to extend it to embrace them. Congress has refused heretofore to pass a law giving pensions to widows who were married after the 1st January, 1794. To do so by special law, in particular cases, would open the door to all widows married after that period; and without inquiring into the justice or expediency of such a general law, applicable to all cases, the committee cannot consent to report favorably on special applications, in the absence of such a general provision by law.

The committee ask to be discharged from the further consideration of the petition.

Henrich & Hens, print.

GEORGE BRENT—ADMINISTRATOR OF.

JANUARY 20, 1847.

Read, and laid upon the table.

Mr. GRIDER, from the Committee on Revolutionary Claims, in his own behalf, made the following minority

REPORT :

The committee ask to be discharged, and Mr. GRIDER makes a minority report, as follows :

That the petitioner is the administrator of Robert C. Brent, deceased, son of George Brent, late of Stafford county, Virginia, and as such claims the five years' full pay in commutation of the half pay for life promised by the resolves of Congress to such officers of the continental army as should serve to the close of the war, which the said George Brent had never received before his death, which occurred some time in the year 1804 or 1805.

It is shown by the certificate of the auditor of the State of Virginia that Lieutenant George Brent received his depreciation of pay on the 24th day of February, amounting to the sum of £179 4s. 8d.

It is also shown, by the affidavits of Charles Bell and Mrs. Euphan Brent, that the said George Brent was a lieutenant of cavalry in the Virginia line, and continued to be so until the end of the war of the Revolution.

Mr. GRIDER, believing the claim to be well founded and unpaid, reports the above facts.

Ritchie & Heiss, printers.

GEORGE BRENT—ADMINISTRATOR OF.

JANUARY 30, 1847.
Read, and laid upon the table.

Mr. Grier, from the Committee on Revolutionary Claims, in his own behalf, made the following minority

REPORT:

The committee ask to be discharged, and Mr. Grier makes a minority report, as follows:
That the petitioner is the administrator of Robert C. Brent, deceased, son of George Brent, late of Stafford county, Virginia, and as such claims the five years' full pay in commutation of the half pay for life promised by the resolves of Congress to such officers of the continental army as should serve to the close of the war, which the said George Brent had never received before his death, which occurred some time in the year 1804 or 1805. It is shown by the certificate of the auditor of the State of Virginia that Lieutenant George Brent received his depreciation of pay on the 24th day of February, amounting to the sum of \$179 44. 84.
It is also shown, by the affidavits of Charles Bell and Mrs. Stephen Brent, that the said George Brent was a lieutenant of cavalry in the Virginia line, and continued to be so until the end of the war of the Revolution.
Mr. Grier, believing the claim to be well founded and unpaid, reports the above facts.

Thomas C. Hays, printer.

NEW HAMPSHIRE CLAIM.

[To accompany bill H. R. No. 582.]

JANUARY 20, 1847.

Mr. RAMSEY, from the Committee on Military Affairs, made the following

REPORT :

The Committee on Military Affairs, to whom was referred House of Representatives bill No. 582, entitled "A bill for the settlement of the claim of the State of New Hampshire against the United States," respectfully submit the following report :

That this subject has been before Congress for some time, and during the last session met with a favorable report from the Military Committee, and which, as their opinions have undergone no change in this matter, is hereto annexed :

"In the winter of 1835-'36 the northern part of the State of New Hampshire, bordering upon Canada, became much disturbed by the conflicting authorities of the State and province, so that bodies of armed men were found opposed to each other in support of the judicial process issued by the officers of their respective governments. To sustain its jurisdiction, the State of New Hampshire called into service a small body of its militia, which continued to occupy the disturbed country for several months, until quiet was restored by the general acknowledgment of the jurisdiction of New Hampshire and the peaceable enforcement of her laws.

"The treaty of 1783 required the dividing line between the United States and Canada to pass 'along the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river, thence down along the middle of that river to the 45th degree of north latitude.' The question which of the several points was the northwesternmost head of Connecticut river was, among others, referred to the King of the Netherlands for his arbitrament, who decided in favor of the pretensions of Great Britain, and thus took from New Hampshire a considerable tract of country over which her jurisdiction had been quietly and uninterruptedly exercised from the earliest period of its settlement. It may be proper to remark that this decision was probably owing to the incorrectness of the geographical information then possessed by either Great Britain or the United States; the commissioners of both governments having stopped short in their survey before they arrived at this part of it. By the map constructed by the New Hampshire commissioners, it is seen that the

branch of Connecticut river adopted by the arbiter as the northwesternmost head never approaches the highlands at all, and consequently a line passing along said highlands could not possibly reach it. On the contrary, the boundary line thus prescribed would have to diverge from the highlands at some uncertain point, and actually cross another river, before it could strike what was said to be the head of Connecticut river. Such a boundary cannot be said to be in compliance with the treaty, or even an approximation towards it.—*Report of Mr. Howard, Chairman of the Committee on Foreign Affairs, 1839.*

“The scene of the disturbances before alluded to was in that part of the county of Coos, in the State of New Hampshire, north of the forty-fifth degree of north latitude, commonly called the Indian Stream territory. It consists of about one hundred thousand acres, and contains four or five hundred inhabitants. Since its settlement, which took place as far back as the year 1790, the State of New Hampshire had always exercised undisputed jurisdiction there, up to the time of the award of the King of the Netherlands. Disturbances then arose; the territory was asserted, by those who fomented the disturbances, to belong to the province of Lower Canada, and the inhabitants were exhorted openly to resist the laws of the State, and assured of the protection of the Canadian authorities. It will be readily seen that during the pendency of the award of the King of the Netherlands the State of New Hampshire was paralyzed. She could not take efficient measures to quell the difficulties which had arisen in consequence of the award, without placing herself in an attitude hostile to the policy of the general government. But, after some time had elapsed, the award was finally set aside, both by the United States and Great Britain. The State of New Hampshire was then remitted to her original rights and duties.

“It is unnecessary to go into a minute detail of all the occurrences which arose from these conflicts of jurisdiction. In October, 1835, which was a period after the rejection of the award, an officer under Canadian authority came into the settlement and arrested one of the inhabitants, who was forcibly rescued by his neighbors. The offence charged consisted in his having assisted a deputy sheriff of the county of Coos, New Hampshire, in the discharge of his duties. Several conflicts took place, and blood was shed in the progress of these disturbances, which grew directly out of the effort by the Canadian authorities to exercise jurisdiction in the territory.

“The State applied to the general government to send troops to sustain the jurisdiction of the State, but the general government thought proper to decline. The State had then no alternative except to abandon her jurisdiction over this territory, as much her own as any part of the soil within her limits, or to take decided measures to maintain it. She thought it due to those of her citizens inhabiting that territory who had loyally exerted themselves to sustain the rights of the State and of the United States, and who had assisted her officers in serving process under her laws, to protect them, and not suffer them to be arrested on her own soil by officers acting under a foreign power, and hurried out of her limits and imprisoned in a foreign land. The legislature of the State, therefore, unanimously determined to station a small military force in the territory, which force was continued there until order was entirely restored. This was done in the most economical manner, the whole expenses claimed

amounting to a little over six thousand dollars; and the result has vindicated the wisdom and propriety of the measure.

"In February, 1836, Mr. Bankhead, the British minister, communicated to Mr. Forsyth, Secretary of State, a complaint of Lord Gosford, governor of Canada, accompanied by a report of commissioners appointed by him to inquire into the Indian Stream difficulties. Among the subjects of complaint, one refers to the 'continual attempts of the State of New Hampshire to exercise jurisdiction and enforce its laws within a territory which, until it shall be formally adjudged to be part of the United States, under the treaty of 1783, must be considered as still undetached from the original possession of Great Britain, and its inhabitants consequently within the protection of her government.'

"Another refers to 'the military occupation, by the State of New Hampshire, of the territory in question.'

"The report of the commissioners appointed by Lord Gosford alludes to a warrant issued by Mr. Rae, a Canadian magistrate, for the arrest of two of the citizens of New Hampshire, who assisted in serving legal process in the territory as one issued by him 'acting in the course of his duty as a magistrate in consequence of an assurance given to the inhabitants of Indian Stream that they should be protected by the government of this province.'

"These complaints were transmitted by the general government to the authorities of the State of New Hampshire. Three commissioners were appointed by a resolution of the legislature of June 18, 1836, "to repair to Indian Stream and collect and arrange such testimony as may be obtained, to rebut and explain the charges and testimony obtained and preferred against the authorities and citizens of this State, by Lord Gosford, governor of the province of Lower Canada.'

"The commissioners attended to the duty assigned them, and, in November following, made a full report, which is among the papers in this case, and fully vindicated the course of the State and proved the unquestionable title of New Hampshire to the territory.

"But the right of the State of New Hampshire to maintain jurisdiction in this territory, and her duty to protect, as she did, her citizens in their liberties, on the failure of the general government to do the same, cannot now be disputed, since by the treaty of 1842, commonly called the Ashburton treaty, the pretensions of Great Britain of right over the territory were entirely abandoned, and the territory is conceded to belong to New Hampshire.

"In pursuance of resolutions of the legislature of New Hampshire, passed in December, 1836, the governor of the State transmitted the account of the military expenses incurred to the President of the United States. The subject was brought before Congress by President Jackson, by a special message, in February, 1837.

"A favorable report was made by Mr. Howard, chairman of the Committee on Foreign Affairs, on the 16th January, 1839, but the subject was not acted on by the House. During the session of 1839-'40, a bill to reimburse the State of New Hampshire passed the Senate at the same time with a bill to reimburse the State of Maine for a much larger amount, for troops called out under similar circumstances. On account of the press of business, these bills were not acted on in the House of Representatives.

The claim of the State of Maine has since been satisfied, in consequence of its having been included in the stipulations of the Ashburton treaty.

"On a careful consideration of the case, it seems to be entirely clear—

"That the territory in question belonged to New Hampshire.

"That disturbances arose there in consequence of a claim of jurisdiction by a foreign power, and attempts to exercise such jurisdiction.

"That the State of New Hampshire successfully maintained the jurisdiction of the State, and of the United States, by calling out a small military force.

"In addition to this, it seems clear that the disturbances commenced and increased to the extent which rendered the military force necessary, in consequence of the action of the general government, which brought about the submission and the award of the King of the Netherlands.

"The House of Representatives bill, herewith reported without amendment, provides that the military force called out on the occasion shall be paid for in the same manner as if called out by order of the general government; and the committee recommend its passage, as an act of obvious justice to the State of New Hampshire."

SICK AND DISABLED SEAMEN.

[To accompany bill H. R. No. 631.]

JANUARY 23, 1847.

Mr. SEAMAN, on leave, made the following

REPORT:

Mr. Seaman, on leave to introduce a bill "for the benefit of sick and disabled seamen," presents to the House the following communication from Dr. Ruschenberger, the surgeon of the United States naval hospital at New York, as his report upon the subject of said bill:

UNITED STATES NAVAL HOSPITAL,
New York, January 4, 1847.

DEAR SIR: A few days since, when I had the pleasure to see you, I suggested that the expenses of the *marine* hospital fund might be decreased, so that its receipts might equal the demands against it; and also that the revenue of the *navy* hospital fund might be increased.

A brief history of these funds may assist us in understanding the subject.

On the ground that seafaring people are improvident, and frequently require to be taken care of, both at home and in foreign countries, when sick or wounded, it was deemed expedient to deduct a portion of their earnings when well, to provide for them suitable accommodations in time of need. No portion of the revenue of the general government was appropriated for charitable or eleemosynary purposes, as is the case necessarily by State or municipal governments; and it often happens that the sailor needs charity when in a municipality where he cannot claim it. All of us are citizens of some particular State, besides being citizens of the United States; and from continuously inhabiting the same locality, may, in case of need, claim the benefits of local charitable institutions. But sailors are emphatically citizens of the United States, and, from their wandering habits, rarely have claims on local institutions for the relief of the sick and disabled. The labors of seamen contribute more largely and more directly to the benefit of the general government than to that of any municipal or State government. It seems, therefore, proper that the needy and afflicted in this class of our fellow-citizens should be provided for by the general government; but, instead of doing so, it enacted laws to compel the class of seafaring men to provide for its own poor.

By an act approved July 16th, 1798, a tax of twenty cents monthly was levied on the pay or wages of all seafaring people; and, in consideration of the payment of this tax, collectors of ports are directed in the same act to "provide for the temporary relief and maintenance of sick or disabled

seamen in hospitals." Under this law all seafaring people who pay this tax, or "hospital money," are entitled to the "relief" specified or intended.

"Temporary relief and maintenance" does not refer to any definite period of time; but, it is presumed, has reference to curable cases, so that the incurable or permanently disabled have no right, under the law, to relief or maintenance.

The rate of the tax thus levied is very heavy, as may be seen by comparing it with the amount of seamen's resources. For example, in the navy the total pay and emolument of a seaman are, annually—pay \$144, and rations \$73; equal to \$217. From this sum he pays yearly \$240, or more than one per cent. (1.10) on his total income. This is not an income tax, nor a property tax, but a tax upon the liability to misfortune of a class whose pursuit is eminently perilous to health and life.

An act approved March 2d, 1799, levied the same amount of tax (to be applied in the same way) on persons serving in the navy. Officers, seamen, and marines under this act were entitled to the same advantages as sailors in the merchant service.

The fund resulting under the operation of these two acts constituted the "*marine hospital fund*."

By an act approved February 26th, 1811, the moneys, or tax collected from persons serving in the navy, were separated from the marine hospital fund, and constituted a fund under the title of "navy hospital fund," as no person in the navy had derived any advantage from the marine hospital fund between the years 1799 and 1811; and as it was fairly shown that the navy had paid at least \$50,000 into it, this sum was taken from the marine hospital fund and paid over as the foundation of the navy hospital fund. By the act of 1811 the Secretary of the Navy, the Secretary of War, and the Secretary of the Treasury, were constituted commissioners of this fund; but, by an act approved July 10th, 1832, the Secretary of the Navy became the sole commissioner.

The act of 1811 provides not only for the temporary, but also for the permanent relief of sick and disabled officers, seamen, and marines; and under its authority the naval asylum at Philadelphia was erected.

The present sources of revenue to the navy hospital fund are, twenty cents monthly deducted from the pay of every person serving in the navy, and twenty cents (the value of a ration) daily from the pay or emolument of every person sick, and maintained at the cost of the navy hospital fund. The twenty cents monthly in 1844, when the number of persons serving in the navy was 1,420 officers, 7,500 men, and 1,000 marines, produced annually about \$24,000; and about \$10,000 more accrue on account of the stopped rations of the sick.

No appropriations are made by Congress for the support of the sick in hospitals, the expenses of which are entirely defrayed by the navy hospital fund. The naval appropriations for medicines, &c., annually made, are expended on the sick afloat.

On the 1st March, 1843, the navy hospital fund amounted to \$248,978 26; but since then it has decreased, and now does not probably exceed \$180,000.

The fund has never been invested, because the commissioner has no authority in law to invest it. The Hon. John Y. Mason, in his annual report of November 25th, 1844, suggested that the fund should be invested in securities of the United States. It has been calculated that the loss in inter-

est in thirteen years, up to 1842, is \$79,980 99, or an annual average loss of \$6,152 38.

Now, I suggest that another source of income to the fund be added, and that the commissioner of it be authorized to invest the fund in securities of the United States. Let it be enacted that, at the expiration of one year after the death of any and all persons who have died, or who may hereafter die intestate while in the navy of the United States, all balances which shall be found due to said deceased persons, and unclaimed by their legal heirs, shall be placed to the credit of the navy hospital fund, by the proper officer of the Treasury Department; and the said moneys or balances shall be, and are hereby declared to be, the property of said navy hospital fund, and the commissioner of the navy hospital fund is hereby authorized and directed to invest the said fund in securities of the United States, and all moneys accruing to said fund in future, except so much thereof as may be required for the erection or necessary extension and repairs of hospital buildings and tenements, and the maintenance of naval asylums and hospitals for the use of the navy.

If the fund were invested, and the unclaimed balances of those who die in the service paid into the fund, the interest, with the amount accruing from rations stopped on account of the sick, would be sufficient to meet all demands for the support of asylums and hospitals for the navy.

The cost of maintaining sick in naval hospitals cannot be safely set down at less than thirty cents a head daily; therefore, as the stopped rations yield only twenty cents a head daily, ten cents must be drawn from the fund, so that it must gradually become less, until the time when Congress will be called on to appropriate money for the current expenses of hospital establishments.

From public documents I learn that the aggregate of hospital money collected from the merchant service for the year 1842 was \$72,429 32, and the expenditure for the same year was \$93,531 68; that the expense of sick and disabled seamen in the merchant service exceeded the receipts \$21,102 36 for the year 1842, and for the half year ending June, 1843, the expenditure exceeded the receipts \$9,129 77. Last year \$25,000 were appropriated by Congress to meet the deficit of the marine hospital fund; and unless some means be devised to prevent this annual deficit, it will probably increase from year to year.

I know of no means of increasing the income of the marine hospital fund. But I believe its expenditures can be reduced without curtailing in the least degree the comfort and accommodation of those requiring relief.

I believe that marine hospitals are now organized at Mobile, Key West, Norfolk, Virginia, Chelsea, Massachusetts; and others are authorized by law and in course of construction at New Orleans, Ocracoke, North Carolina, Louisville, Pittsburg, and Cleveland. At Charleston, South Carolina, seamen, when sick, are taken care of in the public hospital, and paid for from the marine hospital fund, at the rate of sixty cents a day. At Philadelphia and at New York the charge in the city hospitals is \$3 a week per head. In a word, the least average cost of maintaining sick seamen in the several collecting districts, taken together, is \$3 a week.

At the naval hospital, New York, the daily average number of sick from the navy for the year ending June 30, 1845, was 80, and the largest number at one time was 117. The daily average cost per man for food, medicines, hospital stores, groceries, &c., was sixteen and a half cents; and,

including fuel, lights, wages of attendants, &c., I am satisfied the whole daily average cost per man does not exceed thirty cents, or \$2 10 a week.

If the sick of the commercial marine could be supported at the same rate, the demand on the marine hospital fund would be reduced one-third. In other words, \$50,000 would take care of as many sick seamen as \$75,000 do under existing arrangements.

By reference to published reports, I estimate that the average number of sick from the merchant service in the city hospital, New York, is 100, and in the Pennsylvania hospital, Philadelphia, 15. Although not absolutely accurate, this estimate is sufficiently near the truth for our present object.

The naval hospital building at New York, as it now stands, will easily accommodate 185 beds, besides the requisite number of attendants; and by erecting quarters for the accommodation of the medical officers, 200 can be readily accommodated, and, if necessity required, 250 could be comfortably lodged.

The arrangements of the building are such that it costs no more for fuel with 200 patients than it does for 50. With 50 patients we require an apothecary, a steward, a matron, 2 cooks, 2 washers, and 5 nurses, whose salaries are estimated in the above statement. This number of attendants was found sufficient for 100 patients; and if the number were increased to 200, it would be necessary to add 5 or 6 additional attendants, at a cost of \$120 a year each; consequently, the daily average cost per patient must decrease in proportion as the number increases.

As there is ample hospital accommodation at any rate, by making only additional quarters for medical officers on the grounds, for the navy at New York, so long as the navy is limited to 10,000 men, and also for all the sick of the merchant service, let the latter be admitted into the naval hospital at a charge of twenty-five cents daily, or \$1 75 a week, instead of the \$3 now paid at the city hospital. This would at once save to the marine hospital fund \$125 a week, or \$6,500 a year, supposing the average number to be 100. Let it be enacted that, in those collection districts where naval hospitals exist, surgeons in charge of naval hospitals shall receive and provide the necessary comforts and medicines for all seafaring people who may present a ticket of admission signed by the collector of the port, and it shall be the duty of the surgeon in charge of said hospital, on the last day of each month, to forward to the chief of the Bureau of Medicine and Surgery a statement of the names of patients received, and the number of days each one has been subsisted in the hospital, together with the tickets of admission, in order that the chief of the Bureau of Medicine and Surgery may receive at the rate of twenty-five cents daily for each and every man in the hospital, from the marine hospital fund, and credit the same to the navy hospital fund. Suppose, for example, the average number, in a month of 30 days, be 100, the navy hospital fund would be entitled to receive from the marine hospital fund 3,000 rations, at twenty-five cents each—equal to \$750 the month, or about \$9,000 for the year. The expenses of the hospital would be borne by the navy hospital fund, and the disbursements made, as at present, under the direction of the chief of the Bureau of Medicine and Surgery in the Navy Department.

The admission of sick merchant seamen into naval hospitals could not interfere with their discipline or regulation, because the same power which controls merchant seamen in civil institutions would make them subordinate in naval hospitals.

This plan would increase the labor and responsibility of the surgeon in charge of the hospital, as well as the cares of his assistants; but it would proportionately increase their experience and knowledge of the diseases of seamen, and, consequently, render them more valuable as medical officers.

Another means of reducing the expenditure of the marine hospital fund may be adopted.

There are 10 marine hospitals in the United States already built or being built. At each of these the physician in charge will receive annually \$1,000, or for the whole \$10,000 a year will be drawn from the marine hospital fund. Instead of employing civil practitioners in these institutions, place them in charge of surgeons in the navy, and thus save \$10,000 a year to the fund. Without adding to the number of surgeons at present on the list, there are enough "waiting orders," or "on leave of absence," who would be glad of the employment. The difference of pay between "waiting orders" and "on duty" would average \$350, or \$3,500 yearly for the whole 10; an amount which Congress ought cheerfully to contribute to assist men who are so heavily taxed to take care of the sick of their own vocation as our sailors are. If the whole plan be carried into execution, there will be no yearly deficit of \$25,000 for Congress to make up. Would it not be better to vote the \$3,500 than \$25,000 a year? which will probably be the case until some change be made in the present system of affording relief to sick and disabled seamen in the commercial marine.

Surgeons in the navy, from the rigid examinations to which they are subjected before receiving their commissions, and their experience among seamen subsequently, are eminently qualified for treating the diseases and injuries of seafaring men. They have thus a guarantee of qualification for the trust proposed to be given to them that civil practitioners, generally speaking, cannot produce. Besides, \$1,000 a year is not enough to command men of the qualifications—educational, professional, and moral—required in the surgeon and superintendent of an hospital.

All the marine hospital establishments might be safely confided to the direction of the Bureau of Medicine and Surgery in the Navy Department, where all matters connected directly or indirectly with nautical medicine should be managed. The Treasury Department is already overcharged with various duties, and I conceive it would be some relief to it to transfer all things belonging to the management of the marine hospital fund to the Bureau of Medicine, the duties of which are comparatively light. I think it will not be denied that medical affairs may be best managed by medical men, who have spent their whole leisure in qualifying themselves for this object.

The above hastily written suggestions are submitted, in a faint hope they may lead to something beneficial to the condition of seamen.

Of all classes of our fellow-citizens there is perhaps no one which requires more sympathy, more individual attention from the government, than the class of sailors. They live hard, and die early; they receive less for their labor, and are more heavily taxed, than any other men in society. The sea seems to be the last refuge of the unfortunate, the poor, the ignorant, the thoughtless; for, few of understanding and firmness of purpose will prefer the perils of shipwreck—a life hard spent in watching night and day, with often scanty or unpalatable food and drink, exposed to sunshine and rain, and storms and fatigue—to less hazardous and more profitable labor on land. As intelligence increases, the number of seamen will decrease, unless the advantages of a seafaring life are augmented. Commerce demands a full sup-

ply of sailors, on which it depends, in a degree, for its existence ; and also a navy, for the protection of our interests on the coasts and on the high seas, the power of which depends on the strong arms and stout hearts of our seamen.

Can nothing be done to increase the numbers of this class of our citizens, and render the vocation of a sailor less uncertain of the means of comfort in sickness, in decrepitude, or in old age? Law and regulations have given to those who serve faithfully in the navy for twenty years a right to the benefits of the naval asylum. Why should there not be an asylum, also, for the merchant sailor, who has paid hospital money twenty years to the marine hospital fund? Under existing laws the merchant sailor is entitled only to "temporary relief and maintenance," which, under the construction given to the law, is limited to a period not exceeding four months. If not cured of any disease or injury in that time, poor Jack is sent to the alms-house or turned into the street to beg. No matter if consumption of the lungs be slowly but certainly conducting him to the grave, or, from other malady, only a few weeks of life yet remain to him—still, he must not be cared for beyond four months.

The interest I think you feel in this subject, I trust, will be my apology for this long communication.

I am, very respectfully and truly, your obedient servant,

W. S. W. RUSCHENBERGER.

Hon. HENRY J. SEAMAN, M. C.

...and also
...on the high seas
...and stout hearts of our men
...of this class of our citizens
...to maintain and to
...in the way of Law and regulations
...for twenty years a right
...should not be an asylum
...twenty years to
...the merchant sailor is an
...under the contract
...four months. If not
...to the ship
...of the lungs to
...from other causes, only
...he must not be cared for beyond

I trust, will be my apology
Yours very truly
W. S. W. BUSCHENBERGER
Hon. Henry A. Seward, M. C.

CHESAPEAKE AND OHIO CANAL COMPANY.

[To accompany bill H. R. No. 634.]

JANUARY 25, 1847.

Mr. JAMES McDOWELL, from the Committee for the District of Columbia, made the following

REPORT:

The Committee for the District of Columbia, to whom was referred the memorial of the Chesapeake and Ohio Canal Company, asking the assent of Congress to a certain act of the legislature of the State of Maryland, passed in December, 1844, and affecting the rights and interests of said company, have had the same under consideration, and beg leave, respectfully, to report:

That the act to which the assent of Congress is now asked is amendatory of the original act by which the Chesapeake and Ohio Canal Company was incorporated, in December, 1831; that its whole object is to give to the company some additional authority, better than it now has, to protect its property from trespass and injury, its revenues from fraud, and, generally, to enforce its police regulations, under well adapted, prescribed, and restricted penalties. This object, in the judgment of the committee, being a proper one, and the provisions of the law to accomplish it safe and suitable, they beg leave, herewith, to submit a bill adopting the said law on the part of Congress, and giving it full effect within the District of Columbia. That the nature and provisions of this law, however, may be the better seen and understood, it is submitted as a part of this report.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the Chesapeake and Ohio Canal Company respectfully states, that the legislature of Maryland, at its December session, 1844, chap. 287, passed an act entitled "An act supplementary to an act entitled 'An act further to amend the act incorporating the Chesapeake and Ohio Canal Company, passed at December session, eighteen hundred and thirty one, chapter two hundred and ninety-seven,'" the object and provisions of which relate to the prevention of injuries to the canal and its works, to guard against frauds upon its revenues, and to facilitate, generally, the police regulations of the company, as will be seen by reference to the law, printed among the acts of the general assembly of Maryland, passed at

Rutchie & Heiss, print.

December session, 1844, chap. 287, and to a copy of said law, herewith presented as a part of this memorial. The act of 1831, chap. 297, to which the present act is supplementary, was assented to by Congress, and approved by the President of the United States on the 14th day of July, 1832.

And your memorialists state that the provisions of the said supplementary law are now in force, and apply to the one hundred and seventy-nine miles of the line of the canal in the State of Maryland; but the benefit thereof cannot be enjoyed by the company in reference to the five or six miles of the canal within the District of Columbia, without the assent of Congress confirming the same.

Your memorialists therefore respectfully ask that your honorable bodies will pass an act assenting to and confirming the said supplemental act of the State of Maryland, so that the provisions thereof may be extended to and embrace also that part of the canal and its works lying within the District of Columbia, which peculiarly require the superintendence and vigilance of the company, and the exercise of the power and authority conferred upon the company by the provisions of the said supplementary act referred to.

Respectfully submitted by order of the board of president and directors, in behalf of the Chesapeake and Ohio Canal Company.

J. M. COALE,

President Chesapeake and Ohio Canal Company.

Copy of an act of the general assembly of Maryland, passed at December session, 1844, chap. 287, entitled "An act supplementary to an act entitled 'An act further to amend the act incorporating the Chesapeake and Ohio Canal Company, passed at December session, 1831, chap. 297.'"

SEC. 1. *Be it enacted by the General Assembly of Maryland, That if any person or persons shall wilfully or maliciously open or close any waste gate, or any gate or wicket of any lock of the Chesapeake and Ohio canal, or shall wilfully or maliciously, by any means whatever, injure, impair, break, or destroy any part of the Chesapeake and Ohio canal, or any part of its feeders, dams, locks, aqueducts, wastes, waste weirs, culverts, walls, embankments, bridges, buildings, or other works now constructed, or which may hereafter be constructed, by the Chesapeake and Ohio Canal Company, under the several acts incorporating the said canal company, or amendatory thereof, or supplementary thereto, such person or persons so offending shall, for every such offence, forfeit and pay to the said canal company a fine of twenty dollars, to be recovered as hereinafter provided for; and any one or more of them shall also be liable to pay a sum equal to the damage sustained by said company by such injury, to be recovered by said company, if under one hundred dollars, before a single justice of the peace, or district court, as the case may be, as small debts are now recovered; and if over one hundred dollars, by action in the county court of the county where the injury was committed; and every such offender shall furthermore be subject to indictment in the court of the county in which the offence shall be committed; and, upon conviction of such offence, shall be punished by imprisonment for a term not exceeding six months, in the discretion of the court.*

SEC. 2. *And be it enacted*, That if any person or persons shall carelessly, or neglectfully, by any means whatever, injure, impair, break, or destroy, any part of the Chesapeake and Ohio canal, or any part of its feeders, dams, locks, aqueducts, wastes, waste weirs, culverts, walls, embankments, bridges, buildings, or other works now constructed, or which may hereafter be constructed, by the said Chesapeake and Ohio Canal Company, under the acts hereinbefore referred to, such person or persons shall, each of them, pay a fine of five dollars, to be recovered as hereinafter provided for; and any one or more of them shall also be liable to pay a sum equal to the damage sustained by said company, by such injury; to be recovered by said company, if under one hundred dollars, before a single justice of the peace or district court, as the case may be, as small debts are now recovered; and if over one hundred dollars, by action in the county court in the county where the injury was committed.

SEC. 3. *And be it enacted*, That the president and directors of the Chesapeake and Ohio Canal Company, or a majority of them assembled, acting in behalf of the said company, are hereby authorized and empowered, from time to time, to pass all by-laws that may by them be deemed necessary to prevent the canal or any of its basins, ponds, feeders, or other works, from being obstructed by boats, floats, rafts, timber, or other substances floating loose upon or sunk therein; and may, by such by-laws, authorize their officers, agents, or servants, to break up and remove the same from the said canal, or any of its said basins, ponds, feeders, or other works, in case the owner is unknown, or if known, does not reside within the county in which the said boats, floats, rafts, timber, or other substances, are floating or sunk; or if known, and a resident of the county, shall neglect, after notice, forthwith to remove the same, and the materials of the broken boats, floats, raft, timber, or other substance, so broken up and removed, shall be forfeited to and become the property of the said canal company.

SEC. 4. *And be it enacted*, That no person or persons shall anchor or place any vessel, boat, or other thing, so near any of the outlets or guard-locks of the said Chesapeake and Ohio canal as to obstruct or impede the use of such outlet or guard-lock, nor shall any person or persons, without the consent of the said company previously obtained, build or erect on or against the tow path or embankments of the said canal, or on the lands of the said Chesapeake and Ohio Canal Company, any house, shed, building, wharf, or other fixtures; and any person or persons offending against the provisions of this section shall pay to the said company the sum of twenty dollars for each offence, and to be recovered by the said company in the same manner as small debts are recovered; and the said company, by its officers, agents, and servants, may remove any of the obstructions, houses, sheds, buildings, wharves, or other fixtures, prohibited by this section.

SEC. 5. *And be it enacted*, That to insure a compliance with and observance of the by-laws of said company that are now in force, and that may hereafter be adopted, in conformity with the act of incorporation and its several supplements, the said president and directors, or a majority of them assembled, acting in behalf of said company as aforesaid, may prescribe such penalties as they may deem necessary: *Provided*, No penalty for a single offence shall exceed twenty dollars, except in the case of a violation of the by-laws which may be made for the prevention of frauds

upon the revenues of the said company, and to secure the payment of tolls by those trading upon the said canal, in regard to which by-laws a penalty may be imposed not exceeding fifty dollars for any single offence: *And provided further*, That no by-law shall be enforced until after a copy of the same shall have been set up for public inspection for at least ten days, at some one of the toll-houses or lock-houses on the said canal, within the county in which the offence may be committed.

SEC. 6. *And be it further enacted*, That if any person who has violated any of the provisions of this act, or of the act to which this is a supplement, or any of the by-laws of the said Chesapeake and Ohio Canal Company, made in pursuance of either of said acts, shall be about to leave the county in which the offence was committed, it shall be lawful for the said company, by its officers, agents, and servants, to seize the boat, raft, or other craft, of such person, and detain the same until the person so offending shall have answered in the due course of law for such offence.

SEC. 7. *And be it enacted*, That all fines and penalties authorized to be enforced by this act, the collection and enforcement of which are not herein otherwise provided for, shall be recovered in the name of the company, before a single justice of the peace, as small debts are now recovered.

SEC. 8. *And be it enacted*, That the several collectors of tolls on the said Chesapeake and Ohio canal be, and they are hereby, authorized and empowered to administer, but without charge for so doing, all oaths that may be required by the by-laws of the said Chesapeake and Ohio Canal Company; and any person guilty of false swearing, in an oath taken as aforesaid, shall, upon conviction, be liable to the same penalty as if the said oath were administered by a justice of the peace.

SEC. 9. *And be it enacted*, That any lock-keeper or collector of tolls, upon being dismissed from the service of the said Chesapeake and Ohio Canal Company, if living in or occupying a house or building owned or hired by the said company, shall, upon receiving not less than five days previous notice of such dismissal, remove from the same on or before the day designated in such notice; and upon failure or refusal to do so, it shall be lawful for the said company, by its officers, agents, and servants, to use such force as may be necessary to remove such lock-keeper or collector from the house or building occupied by him as aforesaid.

SEC. 10. *And be it enacted*, That the connexion of any fence or wall with the works of the said Chesapeake and Ohio Canal Company, in the manner authorized by the second section of the act to which this is a supplement, or the erection of any fence, wall, or building upon the land of the said company, whether with or without the permission of the said company, however long the same may remain, shall not be deemed nor held in law as an adverse possession, so as to deprive the said company of its rights in or to the said lands.

SEC. 11. *And be it enacted*, That the several sections or provisions of this bill shall respectively commence and take effect, so far as regards the State of Maryland, from the passage thereof; as regards the United States and the State of Virginia, so far as they may respectively assent to any or all of its provisions; and on receiving the further assent of the legislature of Pennsylvania, they shall be deemed to be, so far as such assent may extend, a part of the charter of the Chesapeake and Ohio Canal Company.

29th CONGRESS,
2d Session.

Rep. No. 49.

HO. OF REPS.

POTOMAC BRIDGE.

[To accompany bill H. R. No. 633.]

JANUARY 25, 1847.

Mr. JAMES McDOWELL, from the Committee for the District of Columbia,
made the following

REPORT:

The Committee for the District of Columbia, to whom the "report of A. Beaumont" was referred, report:

That Mr. A. Beaumont is the Commissioner of Public Buildings, who, in the report referred to, makes an official statement of the destruction by high waters, in November last, of a part of the Potomac bridge, which connects the District with the State of Virginia, and accompanies this statement with alternative plans and estimates of cost for the reconstruction of the destroyed part. From this statement, it appears that the bridge in its present situation is wholly impassable and useless, to the serious inconvenience and loss of the inhabitants on both sides of the river, who depended upon it as a means of intercourse and supply, and to the waste and ultimate ruin of the parts of the bridge which are now uninjured. It further appears that whilst the expense of a new and more permanent bridge would be very considerable, the expense of repairing the breach in the present one would not be much; and that the repairs themselves, though of a temporary kind, would be most necessary, if not indispensable, as a scaffolding for the erection of a bridge, either in part or throughout, upon a safer and better plan than the present one.

The committee, concurring in this opinion of the Commissioner, beg leave respectfully to submit a bill herewith, to carry the same into effect.

Ritchie & Heiss. print.

POTOMAC BRIDGE.

JANUARY 25, 1877.

REPORT.

The Committee for the District of Columbia, to whom the report of A. J. Cassin, Esq., was referred, report:

That the report of the Commissioner of Public Buildings, who, in the report referred to, makes an official statement of the condition of the bridge, is, in substance, that the bridge, which connects the District with the State of Virginia, and encompasses this statement with elaborate plans and estimates of cost for the reconstruction of the destroyed part. From this statement, it appears that the bridge, in its present condition, is wholly impracticable and useless, to the extent in which it is used for the transportation of both sides of the river, who are dependent upon it as a means of intercourse and supply, and to the water and adjacent parts of the bridge which are now destroyed. It further appears that while the expense of repairing the bridge in its present condition would be very considerable, the expense of repairing the bridge in its present condition would be much less, and that the repairs themselves, though of a temporary kind, would be most necessary, if not indispensable, for the reconstruction of a bridge, either in part or through out, upon a better and better plan than the present one.

The committee, considering in this opinion of the Commissioner, beg to leave respectfully to submit a bill herewith, to carry the same into effect.

JAMES G. CARSON.

[To accompany bill H. R. No. 642.]

FEBRUARY 4, 1847.

Mr. S. ADAMS, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of James G. Carson, for a confirmation of his pre-emption, and for leave to enter the same at government price, report :

That lot 16, township 19, range 13 east, in the district of land subject to sale at Ouachita, in the State of Louisiana, was settled, occupied, improved, and cultivated in 1834 by one Thomas McDonald, and has been held and occupied ever since by said McDonald, and persons claiming under him, by regular conveyance and transfers down to the petitioner, all which are filed with the petition; that offers to enter the same have been repeatedly made, and refused, upon the ground that said 16th lot was not subject to entry, for the reasons set forth in the letter of the Commissioner, which are as follows :

“ FEBRUARY 4, 1839.

“ SIR : I have the honor to return herewith the letter from B. H. Payne, esq., enclosed in yours of the 27th ult., and regret to state that it is not in the power of this office to afford him relief. It has been decided by the Secretary of the Treasury that the lots or sections numbered 16, fronting on watercourses, in the State of Louisiana, are by law granted to that State for the support of schools, and are therefore not subject to entry.

“ As having a bearing on the case of Mr. Payne, I beg leave to state that some years since, Keene and Martin proved up a pre-emption right to one of those lots or sections ; and their claim having been rejected by the department, for the reason above stated, they made application to Congress, by whom an act was passed for their relief, on the 28th January, 1833, entitled ‘ An act for the relief of William B. Keene and John L. Martin, and for other purposes ;’ under the provisions of which they completed their entry.

“ JAMES WHITCOMB,

“ Commissioner.”

Thus it appears that the difficulty in the way of entering this pre-emption, by Mr. Payne, who was then the owner, was, that it had been set apart as school land, although other lands had been selected as school lands in lieu of said 16th section or lot, as appears from the following letter, to wit :

Ruthe & Heiss, print.

" GENERAL LAND OFFICE,
" July 10, 1846.

" I, James H. Piper, acting Commissioner of the General Land Office, do hereby certify that it appears, from the files and records of said office, that lots numbered *twenty-five, twenty-six, and twenty-seven*, in township numbered *nineteen* north, of *thirteen* east, in the Ouachita district, Louisiana, were approved by the Secretary of the Treasury as school lands for the township in which it is situated, under the act of the 20th May, 1826, on the 9th day of November, 1826.

" JAMES H. PIPER,
" Acting Commissioner."

The Commissioner was satisfied that the claimant ought to have the privilege of entering said pre-emption, and refers to an act of Congress affording relief in a similar case. The committee are of the same opinion, and report a bill accordingly.

That lot 16, township 19, range 13 east, in the district of land subject to sale at Ouachita, in the State of Louisiana, was settled, occupied, improved, and cultivated in 1834 by one Thomas McDonald, and has been held and occupied ever since by said McDonald, and persons claiming under him, by regular conveyance and transfers down to the petitioner, all which are filed with the petition; that others to enter the same have been repeatedly made, and refused, upon the ground that said lot was not subject to entry, for the reasons set forth in the letter of the Commissioner, which are as follows:

" Sir: I have the honor to return herewith the letter from B. H. Payne, dated, enclosed in yours of the 27th ult., and regret to state that it is not in the power of this office to afford him relief. It has been decided by the Secretary of the Treasury that the lots or sections numbered 16, fronting on watercourses, in the State of Louisiana, are by law granted to that State for the support of schools, and are therefore not subject to entry.

" As having a bearing on the case of Mr. Payne, I beg leave to state that some years since, Keene and Martin proved up a pre-emption right to one of those lots or sections; and their claim having been rejected by the department for the reason above stated, they made application to Congress, by whom an act was passed for their relief, on the 28th January, 1833, entitled: 'An act for the relief of William B. Keene and John L. Martin, and for other purposes'; under the provisions of which they completed their entry.

" JAMES WHITCOMB,
" Commissioner."

Thus it appears that the difficulty in the way of entering this pre-emption, by Mr. Payne, who was then the owner, was that it had been set apart as school land, although other lands had been selected as school lands in lieu of said 16th section or lot as appears from the following letter, to wit:

James H. Piper,

CONTINUATION OF FREMONT'S RECONNOISSANCE FROM THE BOUNDARY
OF MISSOURI TO TERRE HAUTE, INDIANA.

[To accompany bill H. R. No. 558.]

JANUARY 20, 1847.

Mr. McDANIEL, from the Committee on Roads and Canals, made the following

REPORT:

The Committee on Roads and Canals, to whom was referred House bill No. 558, "to authorize the Secretary of War to direct a competent officer of the engineer corps to make certain reconnoissances therein named," have had the same under consideration, and ask leave to report:

That the bill, in the opinion of the committee, ought to pass, and therefore they report it back to the House, and recommend its passage.

The bill proposes that one or more of the topographical engineers be directed to continue Colonel Fremont's line of reconnoissance of a road route (from the mouth of the Columbia to the western boundary line of Missouri) on to the town of Terre Haute, in the State of Indiana, there to connect with the national road.

This continuance of Colonel Fremont's line of reconnoissance eastwardly, until it connects with the national road at Terre Haute, is very desirable. The bill proposes to protract the line of reconnoissance by continuing it from such convenient point, near its present eastern termination, as will enable the engineer to find a good crossing place on the Missouri, (at St. Joseph's probably,) and another on the Mississippi, and thence through Springfield, in Illinois, to the town of Terre Haute aforesaid. Also, to protract the line of reconnoissance from its present point of termination, eastwardly, along the south bank of the Missouri river, until it connects, at the city of Jefferson, with the government surveys of a route for the national road from Terre Haute to the said city of Jefferson, in the State of Missouri.

It is believed that a good route for a road, for both military and civil purposes, from the mouth of the Kansas, by the way of the city of Jefferson and Vandalia, to Terre Haute, will be found to exist. Most of the distance has been carefully examined by experienced engineers, and their reports, and the general character of the country unsurveyed, justify the opinion above expressed. In addition to the excellence of the route, and as an incentive to the continuing Fremont's reconnoissance to the city of Jefferson, it should be borne in mind that a portion of the road lying west of Terre Haute and east of Vandalia has been built. By reconnoitring

the country lying between the Kansas river and the city of Jefferson, the government will be put in possession of detailed information in relation to a direct and connected military route from Baltimore, by way of Cumberland, across the Ohio and Mississippi rivers, to cantonment Leavenworth; and from that important post, first to Sante Fe, second to Oregon, and third to California. To connect all these extensive, and, over parts of the routes, *detailed* surveys and reconnoissances, a territory of but about two hundred miles remains to be examined. Surely Congress will not hesitate to order the connexion to be made by some one of the excellent engineers who have already so *nearly* completed the reconnoissance of a route across the continent; especially when it is known that the unfinished portion lies within the State of Missouri, and may be completed by an officer in a few weeks or months.

The other branch of the route to be reconnoitred is considered by the committee as still more important than the southern branch, above described. By starting from Terre Haute, and passing through Springfield, the seat of government of the State of Illinois, and thence directly to Fremont's survey, crossing the Missouri river at or near the town of St. Joseph's, it is believed that, first, *at least* a distance of one hundred miles may be saved; and, second, that a much better and leveller route may be obtained—a route that will admit of the making of a better and cheaper road, and that is crossed by fewer streams, and they less difficult of passage. By the compacts entered into by the United States with the States of Ohio, Indiana, Illinois, and Missouri, upon their coming into the Union, it was agreed, on the one part, that those States should not tax the lands sold by the United States to individuals until full five years had elapsed from the day of sale; and, on the other part, that the United States should allow each of those States 5 per centum of the net proceeds of the sales of all lands within its limits. Of this 5 per cent., 3 per cent. was to be regularly paid over to the States, (who were pledged to expend the same in making internal improvements, and thus make more valuable the remainder of the lands of the United States,) and 2 per cent. was pledged to be expended by the general government itself in making "*a road or roads leading to the said States, and through the same.*" As yet, neither the two per cent. of the amount of the sales of lands in Missouri, nor any part thereof, has been expended in the State of Missouri. On the 22d of January, 1829, the legislature of that State sent a memorial to Congress protesting against its methods of building the national road, and asking only for the graduation of the road in Missouri, and the building of bridges and causeways. This opinion, so far as the committee know, and as they believe, remains unchanged.

By the time the survey herein recommended can be made, the United States will owe to the State of Missouri, on account of the 2 per cent. fund, about \$350,000—a sum believed sufficient to grade a road in an excellent manner from St. Joseph's, on the Missouri, to Hannibal, or to some other proper point above or below it, to be ascertained by the surveys, on the Mississippi river; also to build all the bridges and causeways that may be found necessary. This short northern route is believed to be so level that, when the road is graded in the manner roads usually are, it is thought the rails for a railway might be laid down without further expense. This remark will apply *to the whole route from Terre Haute to the Kansas.* It is therefore deemed but just to Missouri, *that State by compact being enti-*

led to a road within its limits that shall cost *at least* as much as the amount of the 2 per cent. fund, to survey the northern as well as the southern route prior to the coming to a decision upon what route the 2 per cent. fund shall be expended. It is also due to Illinois that the northern route, passing through the centre of its population and its seat of government, shall be as carefully examined as the southern one has been. The real merits of both should be officially ascertained, that Congress may act understandingly upon the whole subject matter. To the ascertainment of the truth no ingenuous mind, no *interest* even, can *justly* take exception. Nor will the ascertainment of these physical truths be useless or unimportant. They will be of large practical importance; for the United States have solemnly agreed to pay to the State of Missouri 5 per cent. upon the net amount of the proceeds of all sales of lands within its limits, if Missouri would not tax those lands. Missouri has not taxed those lands. The United States have paid 3 per cent.; 2 per centum remains unpaid. But that amount the United States must pay, or repudiate. With so much property as the United States have, situated in Missouri, it is not likely that the government will *be allowed to repudiate* if it would. It is not at all likely that, after twenty-seven years of patient forbearance, Missouri will remain quiet much longer, but will *insist* upon the payment, in some form or other, of the 2 per cent. paid to, or expended for the benefit of, every other new State in the American confederacy. Such manifest injustice will certainly be resisted, and redress earnestly sought. So great and so privileged a landholder cannot *always* safely disregard its written obligations, and bid defiance to all appeals to its justice. If Missouri must be paid the sum which the United States have stipulated by solemn compact to pay, then should rival routes, upon one of which the money due is to be expended, be surveyed before one is selected and preferred to the other. The importance of having a proper object upon which to pile expenditure after expenditure, for a long series of years, is obvious to all reflecting minds. That this is one of that long-lived class is evident, when we consider that Missouri is estimated to contain about 42,000,000 of acres of lands that originally belonged to the United States, of which only about 9,500,000 acres have been disposed of, and they yielded the large sum of about \$12,500,000. Five per centum of this sum is no less than \$625,000, and yet of it only \$325,220 75 have been paid to the State of Missouri. This leaves about \$300,000 *now due*, without taking into the account the large land sales now taking place. It has taken upwards of forty years to sell 9,500,000 acres. We have more than 30,000,000 of acres of lands yet to sell; and out of the proceeds of each acre 5 per cent. must be paid to Missouri—3 per cent. to be expended by the State, and 2 per cent. by the United States, upon internal improvements. As the proceeds will continue to flow into the treasury for a long number of years to come, and as the compact requires a disbursement of 2 per cent. thereof for the benefit of Missouri, it is not difficult to apprehend the importance of selecting a truly important road upon which to bestow these numerous, consecutive, and by no means small appropriations. It is not difficult to understand the propriety of having preliminary reconnoissances before entering upon a long series of appropriations.

But in this survey Missouri is not alone interested. The State of Illinois is by no means disposed to accept in payment of the 2 per cent. fund the extravagant expenditures made upon the Cumberland road east of

Vandalia; nor is Indiana or Ohio satisfied with the action of the general government upon this very important subject. These great States will insist upon an honest compliance with the spirit and the letter of the terms of the original compacts. Upon this part of the subject the committee expressed its opinion in a report made at the last session of Congress. As no extra copies of it were printed, and as it is difficult to obtain a copy, and as the subject interests four millions of people, that report is annexed hereto, and made a part of this report. It will be found to contain a complete vindication of the rights of the four great States of Ohio, Indiana, Illinois, and Missouri; and it is most respectfully commended to the earnest attention of the House.

If Congress moves forward and attempts to complete the national road, this reconnoissance ought to be made; if it grants sufficient lands to enable the States to complete this road, it is still important to discover to them the true route for a road from Terre Haute to run; for we have Oregon to defend, and conquests in New Mexico and the Californias to protect, for an indefinite period of time—for perhaps a *very* long time. The value of a suitable avenue leading through the most populous and most fertile parts of the four great western States, and terminating at the very point from where merchants and armies alike take their departure for Oregon, California, New Mexico, and Chihuahua, can hardly be overestimated. Their four millions of people could, upon an emergency, place 200,000 men in the field. They could furnish supplies for the people of the whole earth. They are nearly invulnerable to attack from without. They occupy a nearly central position, and can send assistance and supplies, commerce and manufactures, in any direction. How important, then, that a good road shall pass through the centre of this population and make available to the government its wonderful military resources, and its rapidly increasing commercial wealth. Open this road, keep the large western rivers free from snags and other dangerous obstructions, and, aided by those railroads and canals which State and individual enterprise are rapidly bringing into active and beneficial existence, Congress will have caused a tide of emigration, wealth, and happiness to set into those States to which even their own past history will be unable to furnish a parallel. As the plighted faith of the nation guarantees favorable action, the committee feels that it has only, in the performance of its assigned duty, to present proper bills upon this subject to secure it.

GENERAL LAND OFFICE, *December 29, 1846.*

SIR: In answer to your inquiries of the 24th instant, I have the honor to inform you—

1. That in the State of Missouri, of lands belonging to the United States originally, it is estimated there were 41,806,573 acres;
2. Of which there were sold to the 30th September, 1846, 9,491,630²⁶/₁₀₀ acres, yielding to the government \$12,397,717 72.
3. Of the lands thus the property of the United States there still remain subject to sale, including unsurveyed and unoffered lands, 30,047,597 acres.
4. There has been paid to the State of Missouri, on account of the

three per cent. fund, the sum of \$325,220 75, leaving a balance due the State to 31st December, 1845, of \$24,690 98. By the third part of the 6th section of the act of 6th March, 1820, it is agreed that the two per cent. fund shall be applied to roads or canals leading to the State.

Very respectfully, your obedient servant,

JAMES H. PIPER,
Acting Commissioner.

Hon. W. McDANIEL,
House of Representatives.

FEBRUARY 10, 1846.

The Committee on Roads and Canals, to whom were referred sundry memorials praying that appropriations may be made for the completion of the Cumberland road, also a bill and resolutions relative to the same subject, suggesting various methods of accomplishing the desired object, report:

The building of the Cumberland road has been considered an object of national importance for more than forty years. Its policy has been set forth, its wisdom has been vindicated, by nearly every eminent statesman that has flourished in our country since its earliest adoption. Entered upon under the auspices of Mr. Jefferson, it has been sustained with a spirit, and, in the general, with a *liberality* which few measures have been favored with during so long a period of time. Like all other favorite measures of large governments, it has suffered from the ill considered schemes of misjudging friends, and from the prodigalities of irresponsible subordinates. Economy and cheap methods of construction have failed to be ever-present to guard its popularity, and to achieve the greatest amount of good. Appropriations, also, have not generally been either consecutive, seasonable, or adequate. Hence protracted delays, productive of loss and decay of materials, and causing work to be performed at unsuitable seasons, and at advanced rates of cost, have ensued to the ruin of many worthy contractors, and to the manifest injury of the government and of the people of that section of our country through which the road runs. The non-execution of the work, for many years later than a period deemed reasonable by the most prudent to count upon for its completion, has worked the ruin of large numbers of settlers upon, and purchasers of, the public domain—men who many years ago opened large farms and erected costly buildings along the route of the road, from a belief that the government would not fail to complete in good faith an improvement entered upon for the very purpose of promoting the settlements they were making.

Under these circumstances, Congress is called upon to decide whether it will go forward and complete, with a reasonable promptitude, the great work it has begun, or consign it to dilapidation and decay. If the decision is favorable to a consummation of the policy adopted in 1802, after a deliberate survey of the field, and for a valuable pecuniary consideration, (as the committee will hereinafter show,) it will become the duty of the House to consider whether it were best to construct the road through the

agency of its own officers, or of the States through which the road passes. If it is esteemed best to authorize the States to complete the road, it becomes a matter of inquiry whether the appropriation to defray the cost of construction shall be of money or of land.

Preliminary to an examination of these two important questions, it becomes us to inquire whether *other* obligations rest upon the government to complete the Cumberland road than those which are created by the announcement to the people that a certain line of policy will be pursued to induce them to settle certain portions of the country, and thus lengthen the cords and strengthen the stakes of our political fabric.

And here, that no unjust opinions may obtain in the minds of any, the committee think it proper to say that they fully recognise the doctrine "that the principles of justice, the harmony of the Union, and the spirit of the federal compact, (which contemplates an equal diffusion of benefits as well as of burdens among the members of the confederacy,) require that expenditures made out of the federal treasury, for objects of internal improvement, ought to be extended to all the States, and apportioned among them in fair and just proportions, according to some uniform, equitable, and permanent rule of apportionment."

The committee seek not to confer upon the four great western States of Ohio, Indiana, Illinois, and Missouri, favors to which they are not entitled, and to the neglect of other States equally meritorious, equally deserving of federal munificence. It seeks only to ascertain and develop the original compact between the government and those States, and to urge its performance in good faith and without an unbecoming delay. Justice, to be complete, must be speedy. What was that compact? We extract, in answer, from the Senate report of 1840:

"Is the general government bound in good faith, under the compacts with the States of Ohio, Indiana, Illinois, and Missouri, to complete this road? The compacts, and some other matters connected with this subject, will be laid down by the committee as the text from which they will proceed to answer the latter interrogatory. The 'territory northwest of the Ohio' comprised the country included in the States of Ohio, Indiana, Illinois, and Michigan, and the Territory of Wisconsin. The ordinance of 1778, among other things, provided that there should be not less than three States formed out of this territory. In the year 1802, the eastern division petitioned Congress to provide for its admission into the Union under the ordinance. The application was favorably received by Congress, and the following proposition was submitted to the convention of Ohio by the act of Congress of 30th April, 1802:

"That the following propositions be, and the same are hereby, offered to the convention of the eastern States of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

"*First.* That the section numbered sixteen in every township, and, where such section has been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools.

"*Second.* That the six miles reservation, including the salt springs, commonly called the Scioto Salt Springs, near the Muskingum river, and in the military tract, with the sections of land which include the same, shall be granted to the said State, for the use of the people thereof; the

same to be used under such terms, and conditions, and regulations, as the legislature of the State shall direct, provided the said legislature shall never sell or lease the same for a longer period than ten years.

“*Third.* That one-twentieth of the net proceeds of the lands lying within the said State, sold by Congress from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making *public roads leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same*; said roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass; provided, always, that the three foregoing propositions herein offered are on the condition that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the thirtieth day of June next shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale.”

“By the act of 3d March, 1803, the above proposition was so modified as to commit to the State three-fifths of the reservation for roads, to be expended within the State, reserving two fifths, or two per cent. on the sales, to be appropriated, agreeably to the terms of the act, to *roads leading to and through the States*. Indiana came into the Union under the act of 19th April, 1816, which is similar in its import to that in relation to Ohio. One clause of the act, relative to Indiana, being all that bears directly on the question the committee is considering, is as follows: ‘That five per cent. of the net proceeds of the lands lying within the said territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof; and two fifths to the making of a road or roads leading to the said State, under the direction of Congress.’”

“The act for the admission of Illinois, of the 18th April, 1818, and the act for the admission of Missouri, of 6th March, 1820, contain similar provisions to those above cited, in relation to Ohio and Indiana.”

After making this statement of the case, the Senate committee proceeded to ask: “Did the government contract to make a road leading to and through those States, upon the considerations expressed in the compacts, or did she merely bind herself to expend the two per cent. of the net proceeds of the public lands *towards* that object? If the first, then she was bound to construct the road, whether the two per cent. reserved was sufficient for that purpose or not. If the latter, then she became a trustee to the States to the full amount of the funds committed to her charge, and was responsible for a judicious expenditure of it in the construction of the work. The committee will briefly examine these positions. That the government contracted to complete this road to and through the States named in the compacts, and that such was the original understanding of the parties, may be inferred from the following considerations: It was the original policy of the government, as the proprietor of the most of the lands in those States, under the circumstances, and with the motives to which the committee has directed the attention of the

and to earnestly recommend the policy of speedily opening, graduating, and

Senate in a previous part of this report, to have this road continued from the waters of the Atlantic, through these States. Such was her interest, and such the enlightened counsels that governed her action at that time. She saw its nationality—she saw its operation in facilitating the sale and settlement of her wild lands; and she was not unmindful of what was due to those who periled their lives, and braved the hardships and suffering incident to the settlement of a new country.

“It will be observed, and the committee calls the attention of the Senate to the fact, that this was not a *grant to a State* of two per cent. of the sale of the public lands, but a *reservation by the government* of that per cent., for the purpose of making a road running *to and through the State*, granting *directly* to the State the *three per cent.* to make roads within the States, which latter sum was placed *in the custody of the States, subject to their direction*, while the former or two per cent. was *reserved by the government* and held by her *subject to her own action, independent of the States*, except as to the road to be constructed through the States requiring their assent so far as the right of way was involved. In the one case, the general government *retained the fund*, and the *power to appropriate it to just such a work as she thought proper*; in the other, she parted with the fund to the States, and retained no control over it, or the object of its construction. Is it to be supposed for a moment that the States ever would have consented for the general government to have retained and expended this fund upon a work which she might lay out and project upon a scale so extensive, or so expensive, as to merge the whole funds, and leave a work that would exhaust in its completion a greater sum than the States would have felt justified in expending on any single work? For let it be remembered that the States had no say in the direction, scale, or execution of the work. It would have been folly in the States to have consented to such compacts, with such an understanding; but it seems to the committee that such is not the true construction of the compacts. This view is strengthened by the facts, that the lands subject to the operation of the compacts in the three States of Ohio, Indiana, and Illinois, alone, were estimated at one hundred and twenty millions of acres; the tax on this quantity of land, which was relinquished by the States, for the five years, would have amounted to at least five millions of dollars. The estimate of Mr. Gallatin for the road from Cumberland, the first 70 miles, towards Wheeling, was \$6,000 per mile. The whole distance from Cumberland to the Mississippi, being the proposed length of the road, is 650 miles, which, at the cost of the first 70 miles, as estimated by Mr. Gallatin, would make for the whole work \$3,900,000; such was the estimate at that time. The committee is apprised that the estimate was greatly below the cost of the work, but still it is not prepared to admit that any argument can be drawn from that fact against the position assumed, that the government contracted to make the work upon the consideration stated in the compacts; and if the consideration she received for the promise was inadequate, or if she laid down her work on a scale too liberal or too expensive for the funds she had reserved for the purpose of its construction, surely she cannot stop short, after she has received the consideration from the States, and after they have conformed their roads and improvements to her great national road, and say she abandons the work, without an open violation of her contract with, and plighted faith to, the States. The committee, therefore, maintain that the government was bound by the compacts to finish

the work, whether two per cent. of the net proceeds of the sales of the public lands was sufficient to complete it on her scale or not.

"The next position for examination is that which is so frequently relied upon on this question, against a further prosecution of the work, that the general government was only a trustee, and bound to expend the two per cent. of the proceeds of the sales of the public lands within the States, and no more; and having expended that sum, she is under no obligations to complete her work. The committee has already attempted to show that this is not the true construction of the compacts; but if it were admitted, it is not believed that the principle would exempt the general government from the completion of the Cumberland road to the Mississippi. If she was a trustee at all, it was to the States for the entire fund committed to her charge, as well as an economical and judicious expenditure of it in the construction of the work. What was it her duty to do? It is answered, dispose of the entire fund for the best price she could get under the land laws at the time. She surely could not escape from her liability for the whole fund thus to be disposed of, by the passing of laws making grants, reducing prices, paying for military services in land, giving pre-emptions, and otherwise reducing the quantity and price of the land to be applied to the work. Nor can she escape by saying that she has laid out a work upon so large and expensive a scale that the fund will not complete it; nor does it lie in the mouth of such a trustee to say, that the appropriations from year to year were made in such small sums, and at such periods in the year, that they were exhausted in keeping the road in repair. As the States could not control the matter, good faith required of the general government to have adapted the whole fund to the completion of the work, or rather the proportions of the work to the amount of the fund. Nor is the committee prepared to admit that the entire fund, if judiciously appropriated and economically expended upon a good and substantial work of the kind, would not have been amply sufficient to have completed it. It is believed it would."

Upon this question of the compact between the government and the four States, and strongly illustrative of the justice of the views of the Senate committee, the position of Missouri may be aptly cited. Has that State desired the expenditure of \$3,000,000 (nearly) on the road in Maryland, Virginia, and Pennsylvania, or has it been materially benefited by it? Has it been so largely benefited by the building of any portion of this road, that Congress can with justice say that, in fulfilment of the national compact, the money has been expended upon a road leading to and passing through Missouri? Has Missouri even desired a road of the kind the United States has been building across the mountains for the benefit of the old States? Exactly otherwise. Seventeen years ago the legislature of Missouri memorialized Congress in the following significant terms:

"To the Senate and House of Representatives of the United States in Congress assembled:

"The General Assembly of the State of Missouri, considering that the people of this State are greatly interested in the speedy location and construction of the Cumberland road to the city of Jefferson, assume the liberty to present for the consideration of Congress the propriety of providing, by law, for the immediate location of that road throughout its whole extent, and to earnestly recommend the policy of speedily opening, graduating, and

so improving the same by bridges and causeways, as to facilitate the passage over the most difficult streams and swamps. This General Assembly are well aware that the amount already expended in the construction of this road, from the point of its commencement at Cumberland, has been great, and perhaps considerably exceeding the amount of the two per centum fund heretofore arising from the proceeds of the sales of public lands in the western States, and appropriated to that object by the general government. Yet it must be obvious to the Congress of the United States, that, considering the great distance all parts of this improvement are from the limits of this State, (to the capital of which it is destined ultimately to reach,) the conveniences now arising from it are too remote to be sensibly felt, or even to operate, except in a slightly collateral way, on its citizens. And considering the time already elapsed since the commencement of that great object of internal improvement, and the progress heretofore made towards its accomplishment, it appears evident to your memorialists that no person of the present generation will experience the benefits resulting from it, nor witness its completion in accordance with the original plan and patriotic intention of the general government. Such being the real condition of the citizens of this State in relation to the advantages resulting from the expenditure already made from the general fund (of which they have furnished a liberal share) towards the construction of this road; and as this General Assembly entertain the opinion, in conformity with the reasons hereinafter expressed, that even a specific appropriation from the national treasury, to immediately effect the incipient measures contemplated by the memorial, would be both beneficial to the citizens of this State, and tend to an augmentation of the national revenue and the national wealth of the Union; they cherish the hope that their reasonable request in this behalf may receive the ready assent of the general government. In accordance with what has been observed, your memorialists would further remark, that if the plan hereinbefore suggested be adopted, *a most excellent road, at an expense comparatively small*, may be speedily constructed; and the government can afterwards proceed to cause it to be paved in the way now pursued. With much confidence can this view be relied on in speaking of the course of this road through the states of Illinois and Missouri. *The country is generally level, and well adapted to the construction of good roads* (at least for ordinary purposes) *without incurring the expense of paving*. In both of the States mentioned, the Cumberland road will pass through much of the public lands of the United States. The location and clearing out of this road, *in the manner proposed*, would immediately enhance the value of much of the public domain in a very considerable degree; so that, in a financial point of view, the government would probably lose nothing by the disbursement of a sum sufficient to effect the object desired. The General Assembly, relying on the faith of the general government, cannot doubt but that some provisions will be made for the accomplishing an object of so much importance to this State, to the people of the west, and to the whole Union; and confidently expect that the subject herein presented will receive that consideration which its great interest demands.

"JOHN THORNTON,

"Speaker of the House of Representatives.

"DANIEL DUNKLIN,

"President of the Senate.

"Approved, January 22d, 1829.

"JOHN MILLER."

With great truth the legislature asserts that "the conveniences now arising from it are too remote to be sensibly felt, or even to operate, except in a slightly collateral way, on its citizens." St. Louis, by water, is 1,100 miles from Wheeling, and was collaterally benefited by the money expenditures upon the road east of Wheeling, and in the interior of Ohio and Indiana, in the same way Louisville, Natchez, and New Orleans were benefited. The same remark holds good, and in full force, with all important towns in Western Illinois. That these expenditures were made with an eye to benefit the citizens of Missouri, and to liquidate the claim of that State to an honest expenditure of the two per cent. fund, as stipulated by the compact, will hardly be pretended by any one.

The four States, by binding themselves not to tax lands during a period of five years from the date of their sale to individuals, gave a most valuable consideration for the expenditures Congress is pledged to make. The principal source of revenue belonging to new States is the land tax; and to be deprived of the ability to levy it to any considerable extent, is to seriously augment the embarrassments of the treasury and the burdens of the people. And besides this, the United States is, and during the last forty five years has been, the principal land owner in three of the four States; and if its land had been taxed at the rate that other lands have been taxed, money enough would have been raised to have built a road from Cumberland to Nebraska. But, unlike other property owners, while its property is daily being benefited by the labor, money, and improvements of the States and of the citizens, it is not compelled to pay its *pro rata* share of taxation. Does not this fact constitute an important claim upon the kindest and most liberal consideration of Congress?

To recur to the question of who shall build the road, the United States or the several States? the committee are clearly of the opinion that sound policy dictates the delegation of the trust to the States interested, the United States simply furnishing the means to pay for the work. The work will be likely to be done cheaper and more speedily, and with direct reference to the wishes of the people interested.

And lastly, as to the expediency of voting money or land appropriations to consummate the object of building roads "to and through" these States. After much consideration of this subject, and a free consultation with the representatives of the people directly interested in the result, the committee are of opinion that it is best to make a direct appropriation of land to a sufficient amount to insure the completion of the road to the city of Jefferson, in the State of Missouri. By so doing, the subject will be finally disposed of, and to the satisfaction of all the parties concerned. The long expected good would be realized; the number of land holders and of tax payers would immediately be largely increased, to the mutual advantage of the State and of the general governments.

Is it not an important desideratum, the final settlement of the Cumberland road question? An appropriation of less than four millions of the several hundred millions of acres of public lands will satisfy the expectations of, and fulfil the conditions of the compacts with, the four millions of people inhabiting the four great western States, and thus give this subject a final *quietus*. That they will be silent, with such solemn guarantees in their power to plead, until the conditions of the compacts are fulfilled or compromised, may not reasonably be expected; and of the

various plans of compromise, the one proposed appears to the committee fair, and as most likely to be satisfactory to both parties.

The road, where finished, has cost, upon an average, about the sum of \$20,000 per mile. The committee propose to appropriate, payable in land at \$1 25 per acre, to be disbursed at the convenience of the States interested, within the next eight years, at the rate of \$8,000 per mile in the States of Ohio, Indiana, and Illinois east of Vandalia, and in western Illinois and in Missouri, at the rates estimated by the engineer department. This will give, to be expended on the 53 $\frac{3}{4}$ miles of road in Ohio, the sum of \$430,000; to the 144 miles in Indiana, \$1,152,000; to the 90 miles in Illinois, east of Vandalia, upon which labor has heretofore been expended, \$720,000; to the 67 $\frac{41}{100}$ miles of road in Illinois, west of Vandalia, upon which nothing has been done, \$1,016,700 02; and to the 147 miles in Missouri, from the Mississippi river to the city of Jefferson, upon which no money has yet been expended, \$1,664,790 45. Payable in land, these sums will require the following amounts of land to meet the appropriation, viz: for Ohio, 344,000 acres; for Indiana, 921,600 acres; for Illinois, 1,389,360 acres; and for Missouri, 1,331,832 acres—in all 3,986,792 acres of lands of the United States.

And in accordance herewith, a bill is reported, and its passage recommended to the House.

COST OF FINISHING THE ROAD.

Report from the Secretary of War, transmitting, in compliance with a resolution of the Senate, estimates showing the cost of the extension and completion of the Cumberland road to Jefferson city, in the State of Missouri.

WAR DEPARTMENT, January 24, 1840.

Sir: In compliance with the resolution of the Senate, dated January 30, 1839, "that the Secretary of War be instructed to cause an estimate to be made of the sums that will be necessary to complete the construction of the Cumberland road through the States of Ohio, Indiana, and Illinois, to the Mississippi river, and of the additional amount that will be required to extend the same to Jefferson city, in the State of Missouri, designating the cost of the same in each State respectively, and the aggregate sum that will be necessary to cover the whole expense, showing, as far as practicable, the separate cost of locating and grading said road in each State, for the construction of bridges, and macadamizing the same, with the relative amounts that will probably be expended in the original construction of said work, and in making necessary repairs during the progress of the same, and before its completion," &c., &c., I have the honor to transmit a report of the Chief Engineer and the accompanying documents; in doing which, I beg leave respectfully to call the attention of the Senate to the expense incurred by the department in obeying its instructions.

Whenever the department is instructed to execute surveys, or to furnish information for the use of Congress, which cannot be done without

the expenditure of public money, it is very desirable that an appropriation should be made for that purpose at the same time that the call is made.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. R. M. JOHNSON,

President of the Senate.

ENGINEER DEPARTMENT,

Washington, January 23, 1840.

SIR: In compliance with the resolution of the Senate, returned herewith, dated January 30, 1839, I have the honor to submit the following named papers, showing the estimated cost of completing the Cumberland road through the States of Ohio, Indiana, Illinois, and Missouri, as far as Jefferson city, in the latter State, with the details required by the resolution:

- A. Report on the Cumberland road in Ohio, dated October 31, 1839, by Captain George Dutton, United States engineers.
- B. Estimate of the cost of completing the Cumberland road in Ohio, by the same.
- C. Report on the completion of the Cumberland road in Indiana and Illinois, and its extension to Jefferson city, Missouri, dated December 28, 1839, by Major C. A. Ogden, United States engineers.
- D. Estimate of amount required to complete the Cumberland road in Indiana, east of Indianapolis, by the same.
- E. Estimate of amount required to complete the Cumberland road in Indiana, west of Indianapolis, by the same.
- F. Estimate of amount required to complete the Cumberland road in Illinois, east of Vandalia, by the same.
- G. Estimate of amount required to complete the Cumberland road in Illinois, west of Vandalia, by the same.
- H. Estimate of amount required to complete the Cumberland road in Missouri, from St. Louis to Jefferson city, by the same.
- I. Abstract of the amount required to complete the Cumberland road in Indiana, Illinois, and Missouri, by the same.
- K. Comparative average cost of the Cumberland road in Indiana, Illinois, and Missouri, by the same.
- L. Abstract showing the estimated cost of completing the whole Cumberland road from its commencement to Jefferson city, Missouri.

It will be perceived that Major Ogden, in his report, estimates the additional expense involved in prosecuting the work from more than one or two points in a State, but he estimates only the difference in first outlay, while in many situations great superadded expense may be looked for in the necessity for reforming portions of the road prematurely travelled upon. In the State of Ohio the road proceeds from a single point.

To furnish the estimate, called for by the resolution, of the cost of the road in Illinois, west of Vandalia, and in Missouri, it was necessary to make a new survey, the cost of which was \$1,359 81; as there is no fund

out of which this sum can be drawn, the accounts cannot be paid without a special appropriation of the amount by Congress.

I am, very respectfully, sir, your obedient servant,

JOS. G. TOTTEN,
Colonel, and Chief Engineer.

Hon. J. R. POINSETT,
Secretary of War.

A.

CUMBERLAND ROAD OFFICE,
Springfield, Ohio, October 21, 1839.

SIR: In conformity with your instructions of 6th February last, accompanying a resolution of the Senate of the United States of the 30th January, 1839, calling for an estimate of the amount required to complete the construction of the Cumberland road, I have the honor to submit herewith an estimate of the cost of completing so much of the above road as lies within the limits of the State of Ohio.

The resolution requires the separate cost of locating and grading in each State, for the construction of bridges, and macadamizing, with the relative amounts that will probably be expended in the original construction of said work, and in making necessary repairs during the progress of the same, and before its completion.

The plan of operation which is pursued in the construction of the road in Ohio is that of finishing it continuously, and, as far as practicable, in toll-gate sections of ten miles, and surrendering the same immediately upon completion to the State, which has, by resolution of the legislature of March 27, 1837, authorized the governor to accept, on behalf of the State, such portions of the road as may from time to time be completed, being continuous portions of not less than two miles, and offered for acceptance.

No portion of the annual appropriations has been applied to keeping the road in repairs, the finished portions being immediately surrendered to the State; neither are any temporary works erected with a view to facilitate the travel over the unfinished parts, but only such of this nature as are subsidiary to the construction of the road; nor is the travel encouraged or permitted upon the line until the completion of the grading, the constructing officer being aided in the exercise of this discretion by a law of the State, passed with a view to facilitate the construction of the work, and prohibiting, under a penalty, any travel upon the unfinished portions of it, when interdicted as above.

The western travel over the finished part of the road, after reaching its termination at Springfield, continues on by routes slightly diverging from the main line, and pursues a direction nearly parallel to it until it again meets it immediately upon entering the State of Indiana.

From the present condition of the road, and what has just been stated in regard to its reception, when finished, by the State, no other plan of operation than the one mentioned, viz: that of its continuous completion, and surrender to the State in sections, can be considered either advantageous or necessary, and therefore an estimate of the cost of its entire

completion upon the plan now followed, and under the several heads of location, grading, bridging, and macadamizing, will, it is presumed, furnish all the information required by the resolution, as respects the Cumberland road in the State of Ohio.

The road is now complete, and in the hands of the State, to the forty-third mile west of Columbus, the seat of government. From that city to the State line the distance is $96\frac{3}{4}$ miles, leaving $53\frac{3}{4}$ miles to be finished. The line is located through the State, and no further expense under this head will be incurred. The grading to the 48th mile is complete; the bridging to the Miami river on the 62d mile, and the clearing and grubbing to the 82d mile west of Columbus, are in the course of completion with the means now in hand. There remain $14\frac{3}{4}$ miles to grub and clear, $49\frac{3}{4}$ miles to grade, 35 miles to be bridged, and 53 miles to be macadamized.

I transmit herewith an estimate for the completion of the above work, containing the separate cost of grubbing, grading, bridging, and macadamizing each separate mile of the road remaining to be constructed or finished, the requisite surveys and examinations for this purpose having been made during the past summer.

In my annual report of the condition of this work on the 30th September, 1839, was embraced a project for its completion on the plan of operations herein referred to, showing the amount of appropriation required from year to year during the next three years, to insure its completion and surrender to the State early in 1843.

This plan contemplated carrying on the work, so that ten miles might be given up in the spring of 1841, twenty miles in 1842, and twenty-three and three-fourths miles, being the remainder, in 1843. The amount of the annual appropriations required for the purpose being as follows:

For 1840, \$292,000; for 1841, \$232,000; and for 1842, \$114,166 26. Total, \$638,166 26; being the amount of the estimates hereunto annexed.

That portion of the road yet to be finished passes through a fertile and populous part of the State of Ohio, furnishing facilities for its construction superior to what has been met with on the seventy miles last completed. Many resources are expected to develop themselves in the course of construction, tending to diminish the cost of the work, which cannot now be foreseen. But the most important of all are timely and adequate appropriations, which will enable competent contractors and workmen, who have embarked in the business, to continue upon the work, and also offer inducements for competition among the inhabitants of the country through which it passes, and in every respect contribute to the facility and economy with which the work may be conducted.

Respectfully submitted, with the accompanying estimate, to the Chief Engineer.

G. DUTTON,
Captain United States Engineers.

Col. Jos. G. TOTTEN,
Chief Engineer, Washington, D. C.

B.—Estimate of the amount required to complete the construction of the Cumberland road in the State of Ohio, being the 53½ miles lying west of Springfield, Clark county, on the 30th of September, 1839.

No. of mile west of Columbus.	Opening and grubbing.	Grading.	Masonry of bridges and culverts.	Wooden superstructure of bridges.	Macadamizing.	Aggregate.	Remarks.
44	-	-	-	-	\$1,946 00	\$4,946 00	Last stratum.
45	-	-	-	-	5,440 00	5,440 00	The superstructure of two bridges on the 45th and 46th miles is now under contract; also, a stone bridge and fill on the 46th mile.
46	-	-	-	-	5,440 00	5,440 00	The masonry from the 48th to the 52d mile, with two bridges of 50 feet span each, is now under contract. One bridge of 50 feet span, on the 55th mile, is now under contract.
47	-	-	-	-	5,440 00	5,440 00	
48	-	\$1,978 90	-	-	5,440 00	5,440 00	
49	-	3,251 83	-	-	5,840 00	7,818 90	
50	-	2,871 00	-	-	6,240 00	9,491 83	
51	-	4,247 79	-	-	4,840 00	7,711 00	
52	-	3,588 70	-	-	4,840 00	9,087 79	
53	-	2,912 99	\$723 62	-	4,640 00	8,228 70	
54	-	2,126 57	315 56	-	5,440 00	9,076 61	
55	-	3,621 23	167 04	-	5,840 00	8,282 13	
56	-	3,126 22	787 77	-	4,640 00	8,428 27	
57	-	2,313 50	1,137 92	-	5,140 00	9,053 99	
58	-	1,891 33	508 04	-	5,440 00	8,891 42	
59	-	3,453 93	402 92	-	6,640 00	9,039 37	
60	-	2,252 54	151 60	-	7,440 00	11,296 85	
61	-	2,978 02	390 92	-	6,640 00	9,044 14	
62	-	22,006 59	17,126 90	\$16,155 00	5,440 00	60,723 49	Miami river section. Stillwater river section.
63	-	9,019 50	222 77	-	5,840 00	15,082 27	
64	-	62 07	401 48	-	6,640 00	8,003 55	
65	-	1,325 37	804 75	-	6,800 00	8,930 12	
66	-	2,826 13	284 65	-	6,800 00	9,910 78	
67	-	3,476 92	1,013 66	-	6,640 00	11,130 58	
68	-	858 44	404 16	-	5,140 00	6,402 60	
69	-	21,127 19	2,080 00	-	5,440 00	28,647 19	
70	-	36,772 05	19,245 50	10,920 00	5,440 00	72,377 55	
71	-	2,197 26	182 83	-	6,240 00	8,620 09	
72	-	1,932 41	336 46	-	7,040 00	9,308 87	
73	-	1,016 33	134 33	-	5,440 00	6,590 66	
74	-	2,595 90	2,042 37	-	4,640 00	9,278 27	
75	-	2,431 99	235 14	-	5,440 00	8,107 13	

The grubbing of these miles is now under contract.

76					127 63				6 240 00	7 560 11
77					440 67				5 440 00	8 310 83
78					306 31				5 440 00	7 917 63
79					436 25				5 840 00	7 911 84
80					334 62				5 440 00	7 893 77
81					1 344 35				4 640 00	8 168 84
82					2 991 38		3 480 00		5 440 00	15 105 64
83					759 46				5 140 00	7 754 82
84					574 75				5 140 00	7 684 74
85					400 59				5 440 00	9 492 86
86					3 344 64		2 240 00		4 640 00	13 393 57
87					459 46				5 440 00	7 963 24
88					1 794 50				5 440 00	10 752 10
89					173 26				6 240 00	8 164 63
90					557 98				5 440 00	7 640 72
91					6 576 08				4 840 00	14 578 91
92					232 06				8 640 00	11 158 27
93					3 616 18				7 840 00	14 362 45
94					415 38				7 840 00	10 204 16
95					2 303 38				7 440 00	13 414 40
96					2 391 40				6 640 00	12 143 42
97					668 48				4 980 00	8 175 03
Am't pledged for the completion of the work now under contract -	7 471 00	195 854 87			79 349 20	32 795 00		310 326 00		625 796 07
Total -	2 962 00	2 858 98			7 649 34	5 196 20		-		18 666 52
Contingencies	10 433 00	198 713 85			86 998 54	37 991 20		310 326 00		644 462 59
Total										18 537 41
Amount on hand September 30, 1839										633 000 00
Amount of appropriations required on the 30th of September, 1839, for the completion of the Cumberland road in Ohio										24 833 74
										638 166 26

CUMBERLAND ROAD OFFICE, SPRINGFIELD, OHIO, October 21, 1839.

G. DUTTON, Captain U. S. Engineers.

C.

OFFICE OF THE CUMBERLAND ROAD,
Terre Haute, Indiana, December 28, 1839.

SIR: In conformity with your instructions of the 6th February, 1839, I have the honor to transmit:

Estimate of the amount required to complete the Cumberland road in Indiana, east of Indianapolis.

Estimate of the amount required to complete the Cumberland road in Indiana, west of Indianapolis.

Estimate of the amount required to complete the Cumberland road in Illinois, east of Vandalia.

Estimate of the amount required to complete the Cumberland road in Illinois, west of Vandalia.

Estimate of the amount required to complete the Cumberland road in Missouri to Jefferson city.

Abstract of the amount required to complete the Cumberland road in Indiana, Illinois, and Missouri.

Comparative average cost per mile to complete the Cumberland road in Indiana, Illinois, and Missouri.

A drawing showing the route on which the estimate was made in Illinois, west of Vandalia.

A drawing showing the route on which the estimate was made in Missouri.

These estimates were made with a view of progressing with the road from the eastern boundary of each State, and operating only at one point, and for Indiana and Illinois at the present high rate of wages for laborers, viz: one dollar per day, since which the rate has been reduced in Indiana about one third, and in the eastern part of Illinois about one-fourth; in consequence of which, it is believed that the expenditures on the road for the next three years will fall short of the estimate. The estimate for Missouri is made with the same rate of wages for the grading and masonry, but reduced to seven-five cents for breaking stone for the metallic covering.

If the operations are carried on from more than one point in each State, the following allowance will have to be made for each point per annum:

1 assistant engineer, at \$100 per month	-	-	- \$1,200 00
1 2d assistant engineer, at \$75 per month	-	-	- 900 00
1 rodman, at \$60 per month	-	-	- 720 00
1 inspector of masonry, at \$3 per diem	-	-	- 1,095 00
1 inspector of carpentry, at \$3 per diem	-	-	- 1,095 00
2 chainmen, at \$1 50 per day, say half year	-	-	- 547 50
2 rakers, at \$1 per day	-	-	- 730 00
Office rent, fuel, printing, &c.	-	-	- 200 00
			6,487 00

To show the bearing this will have on the estimates, we will suppose that \$314,424 92 be appropriated annually for the completion of the road in Indiana, and the operations be carried on from three different points; then the two additional offices will, at the time of completion, have added \$129,750 to the cost of construction; and in Illinois, where there are

but two points from which to operate, the additional cost would be \$64,875.

Of the estimates for the completion of the road west of Vandalia, I have briefly to state, that an examination of the report and notes of Mr. Shriver led me to the conclusion that even an approximate estimate made from them would be far beyond the amount required for the completion of the road to Jefferson city. I was led to this conclusion by the following facts, viz: Mr. Shriver was directed to make his survey and location "on a straight line," or as nearly so as the "nature of the ground should admit." His variations from this straight line were limited by the maximum grade of four degrees, and with this limitation he frequently found it necessary to make deep cuts and high embankments on from 15 to 20 miles of the route; and so much broken was this portion of it, that a reduction of the grade to correspond with that of Ohio, Indiana, and Illinois, viz: two degrees, would have required an amount more than sufficient to have completed the road under a more favorable location. I was not furnished with the data which governed Mr. Shriver's estimate of the cost of construction, but, from my knowledge of the cost of such work, was convinced that he had under estimated almost every item. Under these circumstances I believed it necessary to make an examination of the entire route from Vandalia to Jefferson city, to obtain the information required to arrive at even an "approximate estimate." Accordingly, a corps was organized at Vandalia for the purpose of making a survey and measurement of the route; and as it was not intended that it should have any relationship to a permanent location of the road, the levelling was omitted, when, by the judgment of the eye, the inclination of the natural surface of the ground was under two degrees.

This reconnoissance was made with a view to ascertain a route between Vandalia and St. Louis, which would combine the least variation of grade with the least masonry, and consequently the cheapest route, without regard to any given straight line. In the previous survey St. Louis had been made a point on the route, and, considering it an important one, it was adopted in this.

The route from Vandalia to St. Louis was through a slightly undulating country, the watercourses easily approached, and presenting no difficulty in crossing them. In a permanent location of this road, the distance might frequently be advantageously shortened, and frequently the lengthening would prove more advantageous by reducing the cost of culverts and drainage. The present estimate is made on a line crossing the Mississippi at Illinois town, on the lower ferry, though it is believed the best crossing could be obtained at the upper ferry. From St. Louis, the route was continued westwardly, and varies but little from the previous survey, until it strikes the dividing ridge of the Missouri and Merrimack rivers near the head-waters of the Cuire Couse; thence continues on that ridge to the head of Labadie creek, from which point the waters that run south empty into the Bourbeuse river, thence to the divide between the river Au Boeuf on the north, and Red Oak creek on the south; from thence on a spur dividing two branches of the Gasconade to that river, thence westward on a similar spur to the dividing ridge of the Gasconade and river Mariac, thence on a spur to the Osage river near the mouth of the Mariac, thence on a similar spur to the river Moreon, and from thence on a some-

what circuitous ridge to the southeast corner of Jefferson city, making the distance 147.4 miles, being 33 to 71 greater than the previous survey.

On the first view, this increase of distance may be objected to. But when we reflect that a line run through a country so much broken, with a maximum grade of four degrees, would, in reducing it to two degrees, increase the distance nearly as much, and then leave upwards of 50 miles of extreme grade, when this gives but about 20, we naturally draw the conclusion that a road upon the dividing ridge can be travelled in less time and with a heavier load than one that crosses the hills and valleys in nearly a direct line. Another and perhaps more weighty reason may be found in preferring the ridge route, in the cheapness of construction and keeping in repair. In exemplification of which, I will submit a comparative estimate made on a portion of the two routes at a point where it was judged there would be the least difference in their relative costs.

1st. Estimate by ridge route, distance 412 rods:

412 rods of clearing and grubbing, at 50 cents per rod	-	\$206 00
412 " grading, average fill 1 foot 3 inches, at \$2 45	-	1,009 40
412 " metalling, at \$24 75 per rod	-	10,197 00
Total cost	-	<u>11,412 40</u>

2d. Estimate by State road route, between the 32d and 35th miles west of St. Louis, total distance being $289\frac{1}{2}$ rods, or $122\frac{1}{2}$ rods shorter than the ridge route:

$289\frac{1}{2}$ rods of clearing, at 25 cents per rod	-	\$72 37
42,752 cubic yards of cut and fill, at 28 cents per yard	-	11,970 56
$48\frac{3}{4}$ rods of grade, average 1 foot 3 inches fill, at \$2 45 per rod	-	119 43
Culvert $2\frac{1}{2}$ feet $\times$ $2\frac{1}{2}$ feet fill over bed 19 feet = 72 perches, at \$8 per perch	-	576 00
$289\frac{1}{2}$ rods of metalling, at \$25 75 per rod	-	7,165 12
Cost	-	<u>19,903 48</u>

Here is a saving of 122 rods from 412, or nearly one-third of the distance, but it is at an expense of \$8,491 08 in little more than a mile.

As there has been some legislation on the location of this road in Illinois and Missouri, and each designating different points of crossing the Mississippi river, I thought it but right to reconnoitre a route on the north of the Missouri river, (in doing which I regret I had not more time at my disposal.) Knowing the difficulty Mr. Shriver had in getting to the table land, I selected the present travelled road from Jefferson city to St. Charles for a particular examination, because I could hear of no other that had been longer in use. By way of explanation, I would remark that the old and frequently abandoned roads, both in Illinois and Missouri, have decidedly a better location than those more recently constructed. The country on this route, though better adapted to road making than on the south side of the river, is much broken for about twenty miles, owing to its crossing the branches of the little river Au Vases and the (middle) river Au Vases. From thence the country is slightly undulating to Portage des Sioux, the watercourses easily approached and crossed without difficulty. In comparing the relative cost of construction on the two routes, I find that the grading is much in favor of the northern; this, however, is more

than counterbalanced by the difficulty in procuring the necessary materials for the masonry and metallic covering for the road. To equalize them, therefore, there must be a reduction of distance or masonry on the northern route. The bridge and culvert masonry may be reduced to an equality by the following route:

From opposite Jefferson city follow the ridge which divides the waters flowing into Cedar creek on the west, and the rivers Au Vase (three of them) on the east, in a northwardly direction to town 48, range 10; thence heading a branch of the eastern river Au Vase, and crossing the stream in range 8 near the crossing of the present State road, following the connecting spurs between this and the river La Loutre, and cross that river at or near the present road; thence following the dividing ridge of the waters that flow into the Mississippi and Missouri rivers, and passing about $1\frac{1}{2}$ or 2 miles north of St. Charles to the Mississippi at Portage des Sioux.

The distance by this route, when compared with the southern, would be about in the ratio of 43 to 41, and the cost of the metallic covering about in the ratio of 5 to 4. Another route might be obtained by leaving this about ten miles from the river, and, bearing eastwardly, cross the three rivers Au Vase and the river La Loutre about six miles below the first described route, and joining it about 8 miles to the eastward. The difference in the distance of these two routes would be about in the ratio of 17 to 15; and it is believed that although two more bridges will be required on the latter, the road can be constructed as cheap or cheaper than on the route first described, because it runs more into the immediate vicinity of the material required for their construction.

The road from Portage des Sioux to Vandalia will pass through a country similar to that from Vandalia to St. Louis, and the distance will not materially vary.

The result of my observations on both sides of the river leads me to the conclusion that if the road is to be made in a straight line, or as nearly so as possible, it should be on the north of the Missouri; if latitude is allowed for a good location, it should be on the south side.

Very respectfully, your obedient servant,

C. A. OGDEN,
Major, Corps of Engineers.

Col. J. G. TOTTEN,
Chief Engineer, Washington.

D.

Estimate of the amount required to complete the Cumberland road in Indiana, east of Indianapolis.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Super-structure.	Macadamizing.	Total cost per mile.	Remarks.
1	\$840 00	-	\$2,800 00	\$600 00	\$3,284 00	\$7,524 00	
2	1,280 00	-	-	-	4,480 00	5,760 00	
3	1,280 00	\$504 00	-	-	12,430 00	14,214 00	
4	1,120 00	-	-	-	14,080 00	15,200 40	
5	1,280 00	-	2,280 00	-	12,480 00	16,040 00	
6	1,120 00	1,344 00	-	-	14,080 00	16,544 00	
7	1,120 00	448 00	-	-	14,080 00	15,648 00	
8	960 00	420 00	2,550 00	180 00	14,080 00	18,190 00	
9	960 00	420 00	2,550 00	180 00	14,080 00	18,190 00	
10	960 00	-	3,400 00	50 00	14,080 00	18,490 00	
11	640 00	-	990 00	-	13,480 00	15,110 00	
12	960 00	616 00	3,200 00	100 00	14,080 00	18,956 00	
13	1,280 00	784 00	-	-	14,080 00	16,144 00	
14	960 00	-	-	-	14,080 00	15,040 00	
15	1,280 00	-	-	-	14,080 00	15,360 00	
16	960 00	-	-	-	14,080 00	15,040 00	
17	960 00	-	-	-	10,880 00	11,840 00	
18	960 00	-	-	-	12,480 00	13,440 00	
19	960 00	25 00	-	-	14,080 00	15,065 00	
20	800 00	-	-	-	14,080 00	14,880 00	
21	640 00	784 00	-	-	12,480 00	13,904 00	
22	640 00	-	-	-	12,480 00	13,120 00	
23	640 00	-	-	-	12,480 00	13,120 00	
24	960 00	-	-	-	12,480 00	13,440 00	
25	640 00	-	-	-	14,080 00	14,720 00	
26	960 00	-	50 00	60 00	14,080 00	15,150 00	
27	1,600 00	644 00	2,875 00	330 00	12,480 00	17,929 00	
28	1,360 00	3,454 00	-	-	12,480 00	17,294 00	
29	1,120 00	616 00	-	-	12,480 00	14,216 00	
30	1,760 00	1,221 00	5,200 00	1,500 00	10,880 00	20,561 00	
31	2,080 00	1,176 00	-	-	12,480 00	15,736 00	
32	1,600 00	4,695 00	-	-	14,080 00	20,375 00	
33	1,600 00	-	-	-	13,440 00	15,040 00	
34	1,600 00	196 00	7,800 00	2,040 00	13,440 00	25,076 00	
35	1,600 00	252 00	23,200 00	3,200 00	13,440 00	41,692 00	
36	2,320 00	5,460 00	-	-	13,440 00	21,220 00	
37	1,600 00	370 00	4,350 00	1,250 00	14,080 00	21,650 00	
38	2,080 00	740 00	-	-	14,080 00	16,900 00	
39	960 00	930 00	-	-	14,080 00	15,970 00	
40	1,600 00	740 00	4,250 00	1,000 00	14,080 00	21,670 00	
41	960 00	1,176 00	-	-	14,080 00	16,216 00	
42	640 00	1,221 00	-	-	14,080 00	15,941 00	
43	2,560 00	392 00	2,750 00	200 00	12,480 00	18,382 00	
44	1,600 00	3,793 00	-	-	14,080 00	19,473 00	
45	880 00	574 00	-	-	14,080 00	15,534 00	
46	880 00	1,302 00	-	-	14,080 00	16,262 00	
47	960 00	560 00	-	-	14,080 00	15,600 00	
48	1,280 00	603 00	-	-	14,080 00	15,963 00	
49	960 00	333 00	-	-	13,440 00	14,733 00	
50	960 00	289 00	-	-	11,840 00	13,089 00	
51	640 00	544 00	-	-	10,240 00	11,424 00	
52	2,869 00	620 00	-	-	10,240 00	13,729 00	
53	2,870 00	-	-	-	10,240 00	13,110 00	
54	5,724 00	464 00	-	-	11,840 00	18,028 00	
55	640 00	2,125 00	7,200 00	2,400 00	13,440 00	25,805 00	
56	1,555 00	578 00	-	-	13,440 00	15,573 00	
57	1,520 00	888 00	-	-	11,840 00	14,248 00	
58	545 00	-	5,850 00	3,000 00	10,240 00	19,635 00	

D—Continued.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Super-structure.	Macadamizing.	Total cost per mile.	Remarks.
59	\$640 00	\$225 00	-	-	\$10,240 00	\$11,105 00	
60	2,351 10	675 00	-	-	10,240 00	13,266 10	
61	10,595 00	5,631 50	-	-	11,840 00	28,066 50	
62	1,288 00	270 00	\$5,625 00	\$2,400 00	11,840 00	21,423 00	
63	-	-	-	-	5,529 00	5,529 00	
64	-	-	-	-	10,590 00	10,590 00	
65	-	-	-	-	10,590 00	10,590 00	
66	-	-	-	-	9,240 00	9,240 00	
67	-	-	-	-	8,565 00	8,565 00	
68	-	-	-	-	1,080 00	1,080 00	
69	-	-	-	-	-	-	Completed. do.
70	-	-	-	-	-	-	
71	10,720 00	-	-	-	9,702 00	20,422 00	
72	5,420 00	3,238 00	-	-	13,440 00	22,098 00	
	107,097 10	51,340 50	86,920 00	18,490 00	856,330 00	1,120,177 60	
	Contingencies	-	-	-	-	112,017 76	
	Aggregate	-	-	-	-	1,232,195 36	

C. A. OGDEN, Major, Corps of Engineers.

E.

Estimate of the amount required to complete the Cumberland road in Indiana, west of Indianapolis.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Super-structure.	Macadamizing.	Cost of mile.	Remarks.
1	-	-	-	-	-	-	Completed. do. do.
2	-	-	-	-	-	-	
3	-	-	-	-	-	-	
4	\$1,200 00	\$392 00	-	-	\$10,730 00	\$12,322 00	
5	1,450 00	378 00	-	-	10,820 00	12,648 00	
6	1,188 00	728 00	-	-	11,635 00	13,551 00	
7	1,230 00	364 00	-	-	12,430 00	14,024 00	
8	1,284 00	350 00	-	-	14,080 00	15,714 00	
9	1,120 00	1,200 00	-	-	14,080 00	16,400 00	
10	960 00	616 00	\$2,000 00	-	14,020 00	17,596 00	
11	960 00	294 00	-	-	14,080 00	15,334 00	
12	960 00	2,000 00	-	-	14,080 00	17,040 00	
13	1,600 00	300 00	-	-	14,080 00	15,980 00	
14	1,920 00	532 00	2,880 00	-	14,080 00	19,412 00	
15	960 00	90 00	-	-	14,080 00	15,130 00	
16	1,280 00	72 00	-	-	14,080 00	15,432 00	
17	1,600 00	68 00	2,880 00	-	11,840 00	16,388 00	
18	1,600 00	496 00	-	-	10,240 00	12,336 00	
19	960 00	279 00	-	-	10,240 00	11,479 00	
20	640 00	2,550 00	-	-	11,040 00	14,230 00	
21	960 00	996 00	2,080 00	-	13,660 00	17,696 00	
22	1,120 00	648 00	2,400 00	\$75 00	14,080 00	18,323 00	
23	1,120 00	627 00	2,240 00	180 00	14,080 00	18,247 00	
24	2,560 00	460 00	-	-	14,080 00	17,100 00	

E—Continued.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Super- structure.	Macadamiz- ing.	Cost of mile.	Remarks.
25	\$1,920 00	\$152 00	-	-	\$14,080 00	\$16,152 00	
26	1,280 00	-	-	-	14,080 00	15,360 00	
27	2,240 00	549 00	\$60 00	-	13,440 00	16,289 00	
28	1,280 00	-	-	-	12,640 00	13,920 00	
29	640 00	-	-	-	11,040 00	11,680 00	
30	640 00	-	-	-	10,240 00	10,880 00	
31	1,120 00	217 00	-	-	9,440 00	10,777 00	
32	640 00	775 00	-	-	9,440 00	10,855 00	
33	5,059 20	224 00	-	-	10,240 00	15,523 20	
34	5,059 20	891 25	-	-	9,440 00	15,390 45	
35	3,840 00	434 00	-	-	8,640 00	12,914 00	
36	2,076 00	2,642 75	-	-	8,640 00	13,358 75	
37	4,000 00	562 50	-	-	8,640 00	13,202 50	
38	5,059 20	242 50	-	-	8,640 00	13,941 70	
39	3,374 40	2,130 00	12,514 00	\$3,000 00	8,295 00	29,313 40	
40	1,668 50	405 00	-	-	8,640 00	10,713 50	
41	1,600 00	150 00	-	-	8,190 00	9,940 00	
42	5,917 20	483 75	-	-	8,705 00	15,095 95	
43	4,252 80	442 25	-	-	9,440 00	14,135 05	
44	1,756 80	-	-	-	7,275 00	9,031 80	
45	4,252 80	1,240 00	-	-	9,440 00	14,932 80	
46	3,574 40	750 00	-	-	8,640 00	12,964 40	
47	2,345 60	725 00	16,850 00	5,490 00	7,521 00	32,931 60	
48	3,240 00	1,116 00	2,610 00	400 00	9,440 00	16,806 00	
49	3,574 40	3,408 00	-	-	10,240 00	17,222 40	
50	5,923 20	-	9,000 00	1,800 00	11,840 00	28,563 20	
51	640 00	1,476 00	-	-	13,440 00	15,556 00	
52	640 00	2,499 00	-	-	11,840 00	14,979 00	
53	640 00	250 00	1,800 00	321 00	10,120 00	13,131 00	
54	640 00	1,576 50	-	-	9,282 50	11,499 00	
55	640 00	1,312 50	-	-	8,370 00	10,322 50	
56	2,622 40	652 50	-	-	8,565 00	11,839 90	
57	800 00	630 00	-	-	9,440 00	10,870 00	
58	1,556 80	480 00	-	-	11,840 00	13,876 80	
59	7,558 60	2,653 00	3,150 00	200 00	13,440 00	27,001 60	
60	531 20	710 00	-	-	11,840 00	13,081 20	
61	1,275 00	1,080 00	-	-	11,040 00	13,395 00	
62	1,940 40	994 00	7,764 00	1,800 00	10,240 00	22,738 40	
63	211 20	-	-	-	11,840 00	12,051 20	
64	158 40	140 00	-	-	13,440 00	13,738 40	
65	1,498 35	-	4,679 00	1,800 00	13,440 00	21,417 35	
66	158 40	-	-	-	15,040 00	15,198 40	
67	-	-	-	-	14,865 00	14,865 00	
68	158 40	-	-	-	10,740 00	10,898 40	
69	182 00	-	-	-	4,020 00	4,202 00	
70	343 92	-	-	-	3,360 00	3,703 92	
71	22,679 40	252 00	394,200 00	37,000 00	10,270 00	464,401 40	
72	87,226 50	-	73,445 00	42,000 00	8,880 00	211,551 50	
73	1,651 20	140 00	-	-	9,440 00	11,231 20	
74	1,542 40	215 00	-	-	7,440 00	9,197 40	
75	2,555 75	360 00	-	-	8,915 00	11,830 75	
76	4,633 20	1,491 50	100 00	-	10,240 00	16,464 70	
77	237 96	532 00	-	-	10,144 00	10,913 96	
	245,717 18	48,424 00	540,652 00	94,066 00	809,372 50	1,738,231 68	
	Contingencies	-	-	-	-	173,823 17	
	Aggregate	-	-	-	-	1,912,054 85	

C. A. OGDEN, Major, Corps of Engineers.

F.

Estimate of the amount required to complete the Cumberland road in Illinois, from the eastern boundary to Vandalia.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Superstructure.	Macadamizing.	Total cost per mile.	Remarks.
1	-	-	-	-	\$12,400 00	\$12,400 00	
2	-	-	-	-	9,747 00	9,747 00	
3	\$640 00	\$1,050 00	\$1,312 50	-	8,000 00	11,002 50	
4	-	-	-	-	8,029 50	8,629 50	
5	-	-	-	-	9,440 00	9,440 00	
6	-	-	-	-	7,680 00	7,680 00	
7	-	-	-	-	6,000 00	6,000 00	
8	-	-	-	-	4,135 00	4,135 00	
9	-	-	-	-	7,840 00	7,840 00	
10	-	-	-	-	7,350 00	7,350 00	
11	-	-	-	-	8,400 00	8,400 00	
12	-	-	-	-	7,457 50	7,457 50	
13	-	-	-	-	8,400 00	8,400 00	
14	10,376 94	-	15,782 80	\$4,800 00	7,800 00	38,759 74	
15	1,566 50	-	2,400 00	-	8,800 00	12,766 50	
16	1,120 00	520 00	-	-	9,600 00	11,240 00	
17	1,680 00	712 50	-	-	9,200 00	11,592 50	
18	-	-	-	-	8,640 00	8,640 00	
19	1,896 75	909 00	-	-	7,360 00	10,165 75	
20	4,833 00	1,708 50	2,400 00	300 00	7,552 50	16,794 00	
21	3,648 00	817 00	9,460 00	1,800 00	7,362 50	23,087 50	
22	2,377 75	360 00	-	-	9,200 00	11,937 75	
23	5,640 00	-	5,312 50	-	10,000 00	20,952 50	
24	1,600 00	280 00	-	-	9,200 00	11,080 00	
25	960 00	-	-	-	8,400 00	9,360 00	
26	1,600 00	477 00	3,252 50	120 00	8,000 00	13,449 50	
27	720 00	259 00	-	-	8,400 00	9,379 00	
28	800 00	266 00	-	-	9,200 00	10,266 00	
29	1,920 00	630 00	-	-	10,000 00	12,550 00	
30	2,360 00	320 00	1,925 00	-	10,000 00	14,605 00	
31	6,460 00	880 00	5,225 00	1,440 00	10,270 00	24,275 00	
32	1,280 00	294 00	-	-	12,000 00	13,574 00	
33	1,820 00	860 00	1,886 00	-	12,400 00	16,966 00	
34	1,280 00	287 00	-	-	11,600 00	13,167 00	
35	2,000 00	900 00	2,365 00	-	9,200 00	14,465 00	
36	640 00	-	-	-	10,000 00	10,640 00	
37	3,200 00	1,925 00	-	-	8,400 00	13,525 00	
38	18,000 00	-	17,500 00	4,200 00	7,875 00	47,575 00	
39	1,280 00	507 50	-	-	8,400 00	10,187 50	
40	1,280 00	900 00	-	-	9,200 00	11,380 00	
41	1,280 00	304 00	-	-	10,000 00	11,584 00	
42	1,280 00	300 00	-	-	10,800 00	12,380 00	
43	3,200 00	93 00	1,276 00	-	11,600 00	17,036 00	
44	4,800 00	332 50	8,400 00	1,200 00	10,800 00	25,532 50	
45	2,560 00	1,035 00	2,840 00	-	9,200 00	15,635 00	
46	960 00	647 50	-	-	9,200 00	10,807 50	
47	960 00	490 25	-	-	9,200 00	10,650 25	
48	1,520 00	-	-	-	8,400 00	9,920 00	
49	1,520 00	608 00	-	-	6,800 00	8,928 00	
50	1,520 00	-	-	-	8,400 00	9,920 00	
51	1,510 50	-	1,125 00	140 00	8,347 50	11,123 00	
52	1,510 50	323 00	1,156 25	140 00	9,937 50	13,067 25	
53	1,272 00	544 00	1,187 50	140 00	10,732 50	13,876 00	
54	1,360 00	720 00	-	-	12,400 00	14,480 00	
55	1,360 00	294 00	-	-	14,000 00	15,654 00	
56	1,360 00	532 00	-	-	10,800 00	12,692 00	
57	1,760 00	1,134 00	-	-	10,000 00	12,894 00	
58	12,800 00	270 00	9,000 00	1,200 00	8,800 00	32,070 00	

F—Continued.

No. of mile.	Grading.	Culvert masonry.	Bridge masonry.	Superstruc- ture.	Macadami- zing.	Total cost per mile.	Remarks.
59	\$1,680 00	\$1,746 00	-	-	\$9,200 00	\$12,626 00	
60	640 00	-	-	-	10,000 00	10,640 00	
61	5,278 00	1,425 00	\$5,355 00	-	10,000 00	22,058 00	
62	11,200 00	902 00	15,600 00	\$5,250 00	11,600 00	44,552 00	
63	6,949 00	858 00	7,000 00	-	12,400 00	27,207 00	
64	2,560 00	825 00	2,800 00	-	14,000 00	20,185 00	
65	9,565 00	990 00	4,525 00	-	13,200 00	28,280 00	
66	1,840 00	550 00	2,499 00	-	12,400 00	17,289 00	
67	2,240 00	-	1,715 00	-	11,600 00	15,555 00	
68	2,816 00	528 00	3,264 00	-	10,800 00	17,408 00	
69	2,400 00	1,659 00	-	-	9,600 00	13,659 00	
70	2,160 00	320 00	1,886 00	-	8,784 00	13,150 00	
71	2,012 80	1,648 59	-	-	9,600 00	13,261 39	
72	1,600 00	-	-	-	10,800 00	12,400 00	
73	1,801 60	1,068 36	-	-	11,200 00	14,069 96	
74	-	-	-	-	11,200 00	11,200 00	
75	-	-	-	-	11,600 00	11,600 00	
76	-	-	-	-	13,200 00	13,200 00	
77	-	-	-	-	13,117 50	13,117 50	
78	-	-	-	-	13,600 00	13,600 00	
79	-	-	-	-	14,800 00	14,800 00	
80	-	-	-	-	14,800 00	14,800 00	
81	-	-	-	-	13,200 00	13,200 00	
82	-	-	-	-	14,800 00	14,800 00	
83	-	-	-	-	14,000 00	14,000 00	
84	-	-	-	-	14,000 00	14,000 00	
85	-	-	-	-	13,912 50	13,912 50	
86	-	-	-	-	14,000 00	14,000 00	
87	-	-	-	-	13,912 50	13,912 50	
88	-	-	-	-	14,000 00	14,000 00	
89	-	-	-	-	13,412 50	13,412 50	
90	-	-	-	-	13,537 50	13,537 50	
	178,254 34	35,876 70	138,450 05	20,730 00	928,633 00	1,301,944 09	
	Add 10 per cent. for contingencies					-	130,194 41
	Total					-	1,432,138 50

C. A. OGDEN, Major, Corps of Engineers.

G.

Estimate of the amount required to construct the Cumberland road in Illinois, from Vandalia to the east bank of the Mississippi, opposite St. Louis.

No. of the mile.	Opening and grading.						Masonry in culverts.				Masonry in bridges and arch culverts.				Superstructure.			Macadamizing.			Total cost per mile.							
	No. of rods of clearing and grubbing.	Rate per rod.	Amount.	No. of cubic yards of excavation and embankment.	Rate per cubic yard.	Amount.	No. of culverts.	No. of perches of masonry.	Rate per perch.	D. c.	Dls. cts.	Amount.	No. of bridges.	No. of arch culverts.	No. of perches of masonry.	D. c.	Dls. cts.	No. of feet.	Rate per foot.	D. c.		Dolls.	Amount.	Rate per perch.	No. of perches.	Amount.	Dols. cts.	
1	320 25	80 00	19,835 22	4,363 70	-	-	3 109	12 50	1,362 50	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	4 84	15,333 12	21,139 32
2	320 25	80 00	8,438 20	1,687 60	116	299 20	2 75	12 50	937 50	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	4 84	15,333 12	18,337 42	
3	320 25	80 00	-	-	320	1,003 07	1 29	12 50	362 50	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	4 84	15,333 12	16,778 69	
4	320 25	80 00	-	-	320	1,227 79	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	4 84	15,333 12	16,640 91	
5	56 25	14 00	-	-	320	1,242 67	-	-	-	-	-	-	1	-	-	92	12 50	1,150 00	20	12 00	-	240	-	3,168	3 55	11,246 40	13,893 07	
6	74 25	18 50	-	-	320	1,089 17	-	58 10	580 00	-	-	-	1	-	-	-	-	920 00	40	10 00	-	400	-	3,168	3 55	11,246 40	12,934 07	
7	240 25	60 00	-	-	320	2,116 23	-	-	-	-	-	-	1	-	-	92	10 00	920 00	40	10 00	-	-	-	3,168	3 17	10,042 56	13,538 79	
8	320 25	80 00	-	-	320	770 12	1 29	9 50	275 50	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	3 17	10,042 56	11,168 18	
9	320 25	80 00	18,152 22	3,993 44	75	168 08	1 69	9 50	655 50	1	-	-	1	-	-	567	11 50	6,520 50	60	24 00	-	1,440	-	3,120	2 80	8,836 00	21,693 52	
10	320 25	80 00	30,248 22	6,654 56	99	423 72	2 61	9 00	549 00	1	-	-	1	-	-	550	10 00	5,500 00	30	10 70	-	321	-	3,143	2 80	8,800 40	22,328 68	
11	320 25	80 00	-	-	320	984 08	1 29	9 00	261 00	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	2 80	8,870 40	10,195 48	
12	157 25	39 50	-	-	320	1,237 33	1 30	9 00	270 00	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	2 80	8,870 40	10,417 23	
13	-	-	-	-	320	1,353 60	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	2 80	8,870 40	10,224 00	
14	-	-	-	-	320	1,472 08	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	3 17	10,042 56	11,837 64	
15	-	-	-	-	320	2,179 88	-	-	323 00	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,168	3 17	10,042 56	12,222 44	

37	320 25	80 00	14,815 22	3,259 30	156	338 95	-	1 38	-	7 25	-	275 50	1	1	557	9 00	5,013 00	60 24 00	1,440	3,128 25	7,038 00	17,169 25
38	216 25	54 00	-	-	320	840 92	-	1	-	-	-	-	-	-	-	-	-	-	-	7,603 20	8,773 62	
39	-	-	-	-	320	972 80	-	-	-	-	-	-	-	-	-	-	-	-	-	8,173 44	9,146 24	
40	-	-	-	-	320	972 80	-	-	-	-	-	-	-	-	-	-	-	-	-	10,042 56	11,015 36	
41	308 25	77 00	-	-	320	908 60	-	1 38	8 00	-	-	304 00	-	-	-	-	-	-	-	8,173 44	9,463 04	
42	320 25	80 00	10,735 22	2,361 70	120	340 22	-	-	-	-	-	-	-	1	475 10	00 4,750 00	40 10 00	400	3,140 25	8,101 20	16,033 12	
43	320 25	80 00	5,171 20	1,034 20	190	766 76	-	1 33	8 00	-	-	264 00	-	1	171 10	00 1,710 00	-	-	3,168 25	8,173 44	12,028 40	
44	-	-	-	-	320	992 50	-	2 57	8 00	-	-	456 00	-	-	-	-	-	-	-	10,042 56	11,491 06	
45	320 25	80 00	-	-	320	1,539 56	-	-	-	-	-	-	-	1	550 10	00 5,500 00	80 25 00	2,000	3,168 25	8,173 44	9,793 00	
46	284 25	71 00	-	-	317	1,080 37	-	-	-	-	-	-	-	1	-	-	-	-	-	8,028 96	16,680 33	
47	-	-	-	-	299	839 13	-	2 57	8 00	-	-	456 00	-	-	-	-	-	-	-	10,042 56	11,337 69	
48	320 25	80 00	8,438 20	1,687 60	204	676 40	-	3 11	8 00	-	-	904 00	-	1	170 10	00 1,700 00	40 10 00	400	3,140 25	8,101 20	13,549 20	
49	320 25	80 00	-	-	320	897 61	-	1 29	7 25	-	-	210 25	-	-	-	-	-	-	-	7,603 20	8,791 06	
50	154 25	38 50	3,037 20	607 40	261	891 75	-	-	-	-	-	-	-	1	113 10	00 1,130 00	-	-	3,168 25	8,173 44	10,841 09	
51	-	-	-	-	320	1,316 38	-	3 86	8 00	-	-	688 00	-	-	-	-	-	-	-	10,042 56	12,046 94	
52	320 25	80 00	-	-	320	1,084 75	-	1 29	8 50	-	-	246 50	-	-	-	-	-	-	-	10,042 56	11,453 81	
53	320 25	80 00	28,840 20	4,568 00	91	496 43	-	3 10	8 50	-	-	884 00	-	-	-	-	-	-	-	10,042 56	16,070 99	
54	320 25	80 00	-	-	320	1,387 54	-	2 68	8 00	-	-	544 00	-	-	-	-	-	-	-	10,042 56	12,054 10	
55	320 25	80 00	-	-	320	1,203 73	-	1 29	8 00	-	-	232 00	-	-	-	-	-	-	-	8,173 44	9,689 17	
56	320 25	80 00	-	-	320	1,263 41	-	2 57	7 25	-	-	413 25	-	-	-	-	-	-	-	7,603 20	9,359 86	
57	-	-	-	-	320	931 94	-	1 29	7 25	-	-	210 25	-	-	-	-	-	-	-	7,603 20	8,745 39	
58	-	-	-	-	320	972 80	-	-	-	-	-	-	-	-	-	-	-	-	-	7,603 20	8,576 00	
59	160 25	40 00	126,328 23	29,055 44	54½	189 66	-	1 29	8 00	-	-	232 00	-	-	-	-	-	-	-	8,173 44	37,690 54	
60	-	-	-	-	317	1,318 85	-	-	-	-	-	-	-	1	250 10	50 2,625 00	40 10 00	400	3,140 31	9,953 80	14,297 65	
61	-	-	-	-	320	1,933 82	-	1 29	8 50	-	-	246 50	-	-	-	-	-	-	-	10,042 56	12,222 88	
62	-	-	-	-	320	1,933 84	-	1 29	8 50	-	-	246 50	-	-	-	-	-	-	-	11,246 40	13,426 74	
63	-	-	-	-	320	1,211 72	-	1 29	9 50	-	-	275 50	-	-	-	-	-	-	-	11,246 40	12,733 62	
64	-	-	-	-	320	1,391 66	-	2 57	9 50	-	-	541 50	-	-	-	-	-	-	-	11,246 40	13,179 56	
65	-	-	-	-	320	1,353 60	-	-	-	-	-	-	-	-	-	-	-	-	-	11,246 00	12,600 00	
66	-	-	-	-	320	1,353 60	-	2 57	9 50	-	-	541 50	-	-	-	-	-	-	-	11,246 00	13,141 50	
67	-	-	-	-	320	4,222 05	-	1 29	9 50	-	-	275 50	-	-	-	-	-	-	-	11,175 40	16,032 95	
68	-	-	-	-	132	1,568 24	-	-	-	-	-	-	-	1	900 11	50 10,350 00	100 26 00	2,600	1,310 35	4,650 50	19,168 74	
		2,511 00	-	-	-	73,905 92	-	-	-	-	-	18,759 75	-	-	-	-	-	-	14,041	670,744 26	9 24,272 75	
			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

C. A. OGDEN, Major, Corps of Engineers.

H.

Estimate of the cost for construction of the Cumberland

No. of the mile.	Opening and grading.						Masonry in bridges and arch culverts.			
	No. of rods of clearing and grubbing.	Rate per rod.	Amount.	Excavation and embankment.	Rate per cubic yard.	Amount.	No. of rods of grading.	Rate per rod.	Amount.	No of bridges and arch culverts.
		Cts.			Cts.					B. C.
1	320	25	\$80 00	-	-	-	320	-	\$1,009 64	-
2	320	75	240 00	-	-	-	320	-	758 85	-
3	320	75	240 00	-	-	-	320	-	857 62	1
4	320	75	240 00	-	-	-	320	-	634 64	126
5	144	75	108 00	-	-	-	317	-	871 16	9 00
6	320	75	240 00	22,580	25	\$5,645 00	267	-	871 62	9 00
7	320	75	240 00	29,371	25	7,342 75	114	-	258 42	-
8	254	75	190 50	16,180	20	3,236 00	171	-	519 84	199
9	240	75	180 00	14,618	22	3,215 96	130	-	761 42	420
10	254	75	190 50	-	-	-	320	-	1,073 18	-
11	160	75	120 00	11,926	20	985 20	224	-	680 96	440
12	320	50	160 00	-	-	-	320	-	816 92	-
13	320	50	160 00	-	-	-	320	-	738 80	-
14	152	50	76 00	-	-	-	320	\$3 04	972 80	-
15	320	50	160 00	-	-	-	320	-	972 80	-
16	248	75	186 00	6,374	22	1,402 28	209	-	635 36	-
17	320	50	160 00	-	-	-	320	-	1,103 94	-
18	320	50	160 00	-	-	-	320	-	972 80	-
19	270	50	135 00	-	-	-	320	-	972 80	-
20	320	50	160 00	-	-	-	320	-	784 00	-
21	320	50	160 00	-	-	-	320	-	972 80	-
22	320	50	160 00	16,532	22	3,637 04	202	2 45	494 90	-
23	320	50	160 00	3,608	22	793 76	250	-	760 00	1
24	320	50	160 00	3,606	22	793 32	294	-	893 76	126
25	320	50	160 00	-	-	-	320	2 45	884 00	-
26	320	50	160 00	-	-	-	320	1 87	598 40	-
27	320	50	160 00	-	-	-	320	1 87	598 40	-
28	320	50	160 00	-	-	-	320	1 87	598 40	-
29	320	50	160 00	-	-	-	320	1 87	598 40	-
30	320	50	160 00	-	-	-	320	1 87	598 40	-
31	320	50	160 00	-	-	-	320	1 87	598 40	-
32	320	50	160 00	24,153	50	12,076 50	84	-	255 36	-
33	320	50	160 00	-	-	-	320	1 87	598 40	-
34	320	50	160 00	-	-	-	320	2 45	784 00	-
35	320	50	160 00	-	-	-	320	2 45	784 00	-
36	320	50	160 90	-	-	-	320	2 45	784 00	-
37	320	50	160 00	-	-	-	320	2 45	784 00	-
38	320	50	160 00	-	-	-	320	2 45	784 00	-
39	320	50	160 00	-	-	-	320	3 04	972 80	-
40	320	50	160 00	-	-	-	320	1 87	598 40	-
41	320	50	160 00	-	-	-	320	3 04	972 80	-
42	320	50	160 00	12,309	40	4,923 60	219	3 04	665 76	-
43	320	50	160 00	-	-	-	320	3 04	972 80	-
44	320	50	160 00	-	-	-	320	3 04	972 80	-
45	320	50	160 00	-	-	-	320	3 04	972 80	-
46	-	50	160 00	-	-	-	-	-	2,222 24	-
47	320	25	80 00	-	-	-	320	3 04	972 80	-
48	320	25	80 00	-	-	-	320	3 04	972 80	-

H.

road from St. Louis to Jefferson city, in the State of Missouri.

Masonry in culverts.				Superstructure of bridges.			Metalling.			Contingencies.	Cost per mile.
No. of culverts.	No. of perches of masonry.	Rate per perch.	Amount.	No. of feet of span.	Rate per foot.	Amount.	No. of rods.	Rate per rod.	Amount.	Amount.	Amount.
2	57 ¹⁵ ₂₅	\$7 75	\$446 40	-	-	-	320	\$24 75	\$7,920 00	-	\$9,456 04
1	28 ²⁰ ₂₅	7 75	223 20	-	-	-	320	24 75	7,920 00	-	9,142 05
-	-	-	-	-	-	-	320	24 75	7,920 00	-	10,151 62
1	46	7 75	356 50	-	-	-	320	24 75	7,920 00	-	9,151 14
-	-	-	-	50	\$10 00	\$500 00	317	24 75	7,845 75	-	13,608 91
2	73	7 75	565 75	-	-	-	320	24 75	7,920 00	-	17,321 37
-	-	-	-	-	-	-	320	24 75	7,920 00	-	15,761 17
1	38	8 00	304 00	-	-	-	320	24 75	7,920 00	-	14,011 09
2	83	8 00	664 00	40	10 00	400 00	317	24 75	7,845 75	-	16,952 13
2	76	8 00	608 00	-	-	-	320	24 75	7,920 00	-	9,791 68
1	29	8 00	232 00	40	10 00	400 00	317	24 75	7,845 75	-	14,333 91
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,896 92
1	29	8 00	232 00	-	-	-	320	24 75	7,920 00	-	9,050 80
1	38	8 00	304 00	-	-	-	320	24 75	7,920 00	-	9,272 80
1	29	8 00	232 00	-	-	-	320	24 75	7,920 00	-	9,284 80
1	29	8 00	232 00	-	-	-	320	24 75	7,920 00	-	10,375 64
2	57	8 00	456 00	-	-	-	320	24 75	7,920 00	-	9,639 94
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,027 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	12,211 94
-	-	-	-	-	-	-	320	24 75	7,920 00	-	10,799 26
1	29	8 00	232 00	-	-	-	320	24 75	7,920 00	-	9,999 08
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,964 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
1	38	8 00	304 00	-	-	-	320	24 75	7,920 00	-	20,715 86
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	220	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	13,669 36
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
1	29	8 00	232 00	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	-	-	22,893 75	-	25,507 99
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,972 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,972 80

H—Continued.

No. of the mile.	Opening and grading.						Masonry in bridges and arch culverts.				
	No. of rods of clearing and grubbing.	Rate per rod.	Amount.	Excavation and embankment.	Rate per cubic yard.	Amount.	No. of rods of grading.	Rate per rod.	Amount.	No. of bridges and arch culverts.	No. of perches of masonry.
		Cts.			Cts.					B. C.	Cts.
49	320	50	\$160 00	-	-	-	320	3 04	\$972 80	-	-
50	320	50	160 00	-	-	-	320	3 04	972 80	-	-
51	228	50	114 00	-	-	-	320	3 04	972 80	-	-
52	320	50	160 00	-	-	-	320	3 04	972 80	-	-
53	320	25	80 00	-	-	-	320	-	972 80	-	-
54	320	25	80 00	-	-	-	320	-	972 80	-	-
55	320	25	80 00	-	-	-	320	-	972 80	-	-
56	320	50	160 00	-	-	-	320	-	972 80	-	-
57	320	50	160 00	-	-	-	320	2 45	784 00	-	-
58	320	50	160 00	-	-	-	320	1 87	598 40	-	-
59	320	50	160 00	-	-	-	320	2 45	784 00	-	-
60	320	50	160 00	-	-	-	320	1 87	598 40	-	-
61	320	50	160 00	-	-	-	320	1 87	598 40	-	-
62	320	50	160 00	-	-	-	320	1 87	598 40	-	-
63	320	50	160 00	-	-	-	320	1 87	598 40	-	-
64	320	50	160 00	-	-	-	320	3 04	972 80	-	-
65	320	50	160 00	-	-	-	320	1 87	598 40	-	-
66	320	50	160 00	-	-	-	320	2 45	784 00	-	-
67	320	50	160 00	-	-	-	320	1 87	598 40	-	-
68	320	50	160 00	-	-	-	320	1 87	598 40	-	-
69	320	50	160 00	-	-	-	320	2 45	784 00	-	-
70	320	50	160 00	-	-	-	320	1 87	598 40	-	-
71	320	50	160 00	-	-	-	320	-	972 00	-	-
72	320	50	160 00	-	-	-	320	2 45	784 00	-	-
73	320	50	160 00	-	-	-	320	1 87	598 40	-	-
74	320	50	160 00	-	-	-	320	1 87	598 40	-	-
75	320	50	160 00	-	-	-	320	1 87	598 40	-	-
76	320	50	160 00	-	-	-	320	2 45	784 00	-	-
77	320	50	160 00	-	-	-	320	2 45	784 00	-	-
78	320	50	160 00	-	-	-	320	1 87	598 40	-	-
79	320	50	160 00	-	-	-	320	1 87	598 40	-	-
80	320	50	160 00	-	-	-	320	2 45	784 00	-	-
81	320	50	160 00	-	-	-	320	1 87	598 40	-	-
82	320	50	160 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
83	212	50	160 00	-	-	-	320	2 45	784 00	-	-
84	320	50	160 00	-	-	-	320	1 87	598 40	-	-
85	320	50	160 00	-	-	-	320	1 87	598 40	-	-
86	320	50	160 00	-	-	-	320	1 87	598 40	-	-
87	320	50	160 40	-	-	-	320	3 03 ³ / ₄	972 00	-	-
88	320	50	160 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
89	320	50	160 00	-	-	-	320	1 87	598 40	-	-
90	320	50	160 00	-	-	-	320	2 45	784 00	-	-
91	290	50	145 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
92	320	75	240 00	-	-	-	320	2 45	784 00	-	-
93	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
94	268	75	201 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
95	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
96	320	75	240 00	-	-	-	320	1 87	598 40	-	-
97	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
98	320	50	160 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
99	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
100	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
101	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-
102	320	75	240 00	-	-	-	320	3 03 ³ / ₄	972 00	-	-

H—Continued.

Masonry in culverts.				Superstructure of bridges.			Metalling.			Contingencies.	Cost per mile.
No. of culverts.	No. of perches of masonry.	Rate per perch.	Amount.	No. of feet of span.	Rate per foot.	Amount.	No. of rods.	Rate per rod.	Amount.	Amount.	Amount.
-	-	-	-	-	-	-	320	24 75	\$7,920 00	-	\$9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,006 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,972 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,972 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,972 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 80
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,037 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,944 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,093 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00

H—Continued.

Masonry in culverts.				Superstructure of bridges.			Metalling.			Contingen- cies.	Cost per mile.
No. of culverts.	No. of perches of masonry.	Rate per perch.	Amount.	No. of feet of span.	Rate per foot.	Amount.	No. of rods.	Rate per rod.	Amount.	Amount.	Amount.
-	-	-	-	-	-	-	320	24 75	\$7,920 00	-	\$8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,944 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	22,463 47
-	-	-	-	440 40	\$44 10	\$19,760 00	290	24 75	7,177 50	-	82,855 48
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,944 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,132 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,758 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,433 60
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,373 60
3	206	\$8 00	\$1,648 00	-	-	-	288	24 75	7,128 00	-	17,213 06
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,864 00
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	8,678 40
-	-	-	-	-	-	-	320	24 75	7,920 00	-	9,513 60
-	-	-	-	240	44 00	10,560 00	305	24 75	7,548 75	-	29,303 95
-	-	-	-	-	-	-	320	24 75	7,920 20	-	10,090 00
-	-	-	-	-	-	-	320	24 75	7,920 20	-	9,052 00
-	-	-	-	-	-	-	320	24 75	7,920 20	-	9,193 60
-	-	-	-	-	-	-	320	24 75	7,920 20	-	9,193 60
-	-	-	-	-	-	-	320	24 75	7,920 20	-	9,052 00
-	-	-	-	-	-	-	129	24 75	3,192 75	-	3,649 41
-	-	-	7,271 85	-	-	31,620 00	-	-	1,180,278 00	151,344 58	1,513,445 87
Add for contingencies										-	151,344 58
Total										-	1,664,790 45

C. A. OGDEN, Major, Corps of Engineers.

I.

Abstract of the amount required to complete the Cumberland road in the States of Indiana, Illinois, and Missouri, September 30, 1839.

Divisions of road.	Amount for grade.	Amount for culvert masonry.	Bridge masonry and arch culverts.	Superstructure.	Metalling.	Contingencies.	Total.
East of Indianapolis, Indiana -	\$107,097 10	\$51,340 50	\$86,920 00	\$18,490 00	\$856,330 00	\$112,017 76	\$1,232,195 36
West of Indianapolis, Indiana -	245,717 18	48,424 00	540,652 00	94,066 00	809,372 00	173,823 17	1,912,054 85
East of Vandalia -	77,251 65	35,876 70	138,450 05	20,730 00	928,633 00	130,194 41	1,432,138 50
West of Vandalia -	101,002 69	18,759 75	74,218 50	14,041 00	670,744 26	92,427 27	1,016,700 01
St. Louis to Jefferson city -	2,511 00	7,271 85	72,368 25	31,620 00	1,180,278 00	151,344 58	1,664,790 45
	70,092 32						
	73,905 92						
	25,538 50						
	74,798 03						
	121,571 24						
Total	899,485 63	161,672 80	912,608 80	178,947 00	4,445,357 26	659,807 19	7,257,879 18

C. A. OGDEN, Major, Corps of Engineers.

K.

Comparative average cost of grading, bridging, and metalling, required to complete and construct a mile of the Cumberland road in the States of Indiana, Illinois, and Missouri, September, 1839.

Divisions of road.	Distance, in miles and decimals.	Grading.	Bridging.	Metalling.	Total average cost per mile.
East of Indianapolis, Indiana - -	72	\$1, 636 20½	\$2, 394 89	\$13, 082 82	\$17, 113 82
West of Indianapolis, Indiana - -	77	3, 510 24½	9, 759 17	11, 562 46½	24, 831 88
State line to Vandalia, Illinois - -	90	2, 178 66½	2, 384 02	11, 349 96	15, 912 65
Vandalia to St. Louis, Missouri - -	67. 41	2, 390 74½	1, 746 34½	10, 945 24	15, 082 33
St. Louis to Jefferson city, Missouri - -	174. 4	1, 656 03	830 30	8, 808 04	11, 294 37

NOTE.—This average includes contingencies.

C. A. OGDEN, *Major, Corps of Engineers.*

L.

Estimate of the cost of completing the Cumberland road in the States of Ohio, Indiana, Illinois, and Missouri, to the city of Jefferson.

For completing the road in Ohio - - -	-	\$638, 166 26
For completing the road in Indiana, east of Indianapolis -	\$1, 232, 195 36	
For completing the road in Indiana, west of Indianapolis -	1, 912, 054 85	
Total for road in Indiana - - -	-	3, 144, 250 21
For completing the road in Illinois, east of Vandalia -	1, 432, 138 50	
For completing the road in Illinois, west of Vandalia -	1, 016, 700 02	
Total for road in Illinois - - -	-	2, 448, 838 52
For completing the road in Missouri - - -	-	1, 664, 790 45
Total cost of completion in the four States -	-	7, 896, 045 44

ENGINEER DEPARTMENT, *January 23, 1840.*

JOS. G. TOTTEN,

Colonel and Chief Engineer.

ENGINEER DEPARTMENT,

Washington, January 9, 1845.

SIR: Your letter of the 6th instant, inquiring "the amount of money expended for the construction of the Cumberland road" in the States of "Maryland, Pennsylvania, Virginia, Ohio, Indiana, and Illinois," has been referred to this office.

In reply, I have the honor to state, that the appropriations for the road through the States of Maryland, Pennsylvania, and Virginia, were made under one common head of the "Cumberland road east of the Ohio;" and that the accounts and expenditures have been so kept, and not separated as to the amounts expended in each State.

There may be, however, among the records of the office, some statement that will show the cost in each of these States, for which search is now being made, and if found will be communicated to you.

In the mean time I have thought it might be agreeable to you to know, and might probably answer your present purpose, that the whole sum appropriated for the road east of the Ohio, or expended in the States of Maryland, Pennsylvania, and Virginia, amounts to -

The total expenditure in Ohio has been	-	-	\$2,812,034 21
The total expenditure in Indiana	-	-	2,077,631 06
The total expenditure in Illinois	-	-	1,128,289 50
The total expenditure in Illinois	-	-	742,445 30
Total	-	-	<u>6,760,400 07</u>

Very respectfully, your obedient servant,

JOS. G. TOTTEN,
Colonel and Chief Engineer.

Hon. ROBERT SMITH,
House of Representatives.

ENGINEER DEPARTMENT,

Washington, January 13, 1845.

SIR: I have been unsuccessful in finding, among the records of this office, any data that will furnish the cost of the construction of the Cumberland road in either of the States of Maryland, Pennsylvania, or Virginia.

The whole cost of the road in these three States, as stated in my letter of the 9th instant, has been \$2,812,034 21.

Of this sum there was spent, under the direction of the Treasury Department, for the original construction of the road, from 1811 to 1827	-	-	\$1,728,714 00
From 1827 to 1832, the repairs of the road, upon the plan of the original construction, cost	-	-	145,950 00

In the fall of 1832, an officer of engineers was assigned to the superintendence of the road, when the character and mode of repairs were entirely changed, and made on the Macadam plan; the grade was diminished, the location, in parts, changed, and the bridges made permanent.

The cost of these changes and permanent repairs, with the toll-houses, gates, &c., was - - - - \$937,370 21

Making the total cost, as before stated - - - - 2,812,034 21

The accounts for these various expenditures having been all rendered under one general head, ("the Cumberland road east of the Ohio," under which the appropriations were made,) it would now be impossible to ascertain the expenditures in the different States.

The cost in each State can, however, be obtained approximately. The whole length of the road, from Cumberland to the Ohio river, is 132.3 miles.

The portion in Maryland is	-	-	-	-	32 miles.
In Pennsylvania	-	-	-	-	84.3 "
And in Virginia	-	-	-	-	16 "
					<u>132.3 miles.</u>

If we, then, suppose that the cost per mile in each State has been about the same, (which is not very far from the truth, at least in Maryland and Pennsylvania,) the cost of the thirty-two miles in Maryland will be about - \$680,159 11
The cost of the 84.3 miles in Pennsylvania will be about 1,791,795 50
And the cost of the 16 miles in Virginia will be about - 340,079 60

Making the whole cost east of the Ohio - - - - 2,812,034 21

I hope this approximation to the expenditures in the States of Maryland, Pennsylvania, and Virginia may answer your purposes.

Very respectfully, your obedient servant,

JOS. G. TOTTEN,
Colonel and Chief Engineer.

HON. ROBERT SMITH,
House of Representatives, Washington city.

The cost of these changes and permanent repairs, with the toll-house, gates, &c., was - - - - - \$937.370 31

JOSEPH G. TOTTEN,
Colonel and Chief Engineer.

MARINE CORPS OF THE UNITED STATES.

[To accompany bill H. R. No. 646.]

FEBRUARY 6, 1847.

Mr. I. E. HOLMES, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the recommendation of the Secretary of the Navy, on the increase of the marine corps of the United States, report:

That in 1800 the corps consisted of 750 privates. Although our navy has greatly increased, yet this corps has only been increased 250—making at the present time a regiment of 1,000 men. This number, even in times of peace, have proven inadequate to the demands of the service. The marines are not only employed as soldiers on board our naval vessels, but are required to guard the large amount of property in our docks and yards at various posts. At the present time, so inadequate is the force to accomplish what is required, that a number of watchmen are hired to do the duty of marines at several of the naval stations, and that at an expense of three to one compared with the regular soldiers of the corps. The necessity of an increase of the corps is greatly felt by the vessels of our squadron on the Gulf station; and should there be an attack upon any towns on the coast of Mexico, they will be required to act as soldiers on the disembarkment of our troops and sailors. After consulting a distinguished officer of our navy, late from the Gulf squadron, and communicating with the Secretary of the Navy, your committee have concluded to recommend that the corps be increased, by the addition of one thousand men, four captains, four first lieutenants, four second lieutenants, twenty-five sergeants, twenty-five corporals, twenty-five drummers, and twenty-five fifiers.

They further recommend that the officers thus provided for shall be appointed, in the first instance, by promotion in the marine corps according to rank, and then by selection; and that their nominations shall be submitted by the President to the Senate for their advice and consent.

They further recommend that the same bounty be granted to the marines to be enlisted under the provisions of this bill, as may be granted to the soldiers who may be enlisted in the regular army, by virtue of any bill passed at the present session; and it is further recommended that when the war with Mexico shall cease, the President be required to discharge from the said corps one-half of the number of men enlisted under and by virtue of this act.

Ritchie & Heiss, printers.

MARINE CORPS OF THE UNITED STATES.

[To accompany bill H. R. No. 645.]

FEBRUARY 6, 1847.

Mr. I. E. Holmes, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the recommendation of the Secretary of the Navy, on the increase of the marine corps of the United States, report:

That in 1800 the corps consisted of 750 privates. Although our navy has greatly increased, yet this corps has only been increased 250—making at the present time a regiment of 1,000 men. This number, even in times of peace, have proven inadequate to the demands of the service. The marines are not only employed as soldiers on board our naval vessels, but are required to guard the large amount of property in our docks and yards at various posts. At the present time, so inadequate is the force to accomplish what is required, that a number of watchmen are hired to do the duty of marines at several of the naval stations, and that at an expense of three to one compared with the regular soldiers of the corps. The necessity of an increase of the corps is greatly felt by the vessels of our squadron on the Gulf station; and should there be an attack upon any town on the coast of Mexico, they will be required to act as soldiers on the disembarkment of our troops and sailors. After consulting a distinguished officer of our navy, late from the Gulf squadron, and commanding with the Secretary of the Navy, your committee have concluded to recommend that the corps be increased, by the addition of one thousand men, four captains, four first lieutenants, four second lieutenants, twenty-five sergeants, twenty-five corporals, twenty-five drummers, and twenty-five fliers.

They further recommend that the officers thus provided for shall be appointed, in the first instance, by promotion in the marine corps according to rank, and then by selection; and that their nominations shall be submitted by the President to the Senate for their advice and consent. They further recommend that the same bounty be granted to the marines to be enlisted under the provisions of this bill, as may be granted to the soldiers who may be enlisted in the regular army, by virtue of any bill passed at the present session; and it is further recommended that when the war with Mexico shall cease, the President be required to discharge from the said corps one-half of the number of men enlisted under and by virtue of this act.

Reuben & Hens, printers.

STATISTICS, ETC., OF THE INDIAN TRIBES.

[To accompany bill H. R. No. 649.]

FEBRUARY 9, 1847.

Mr. JACOB THOMPSON, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the memorial of Albert Gallatin, Wm. C. Bouck, John Tracy, and others, of New York, asking an appropriation to obtain the statistics of the Indian tribes, have had the same under consideration, and beg leave to report:

The committee most cheerfully approve of the objects proposed to be attained in the memorial; and at the last session of Congress they directed the chairman to move an amendment to the regular Indian appropriation bill, requiring the Commissioner of Indian Affairs to collect the statistics of the different tribes, and appropriating ten thousand dollars to enable him to effect this purpose. This amendment received the approbation of the House of Representatives; but it was stricken out in the Senate, and a provision was substituted requiring the Commissioner of Indian Affairs to collect this information by means of the present organization of the department. Appended to this report is a letter of the Commissioner, which gives an account of the progress already made, which it is believed will prove highly interesting to the benevolent and intelligent; and also an estimate of the amount which will be required to collect the information called for, in a more full, authentic, and satisfactory manner: and an amendment is reported in the bill to amend the act to regulate trade and intercourse among the Indian tribes, appropriating the amount he requires.

It is a source of regret that we have so little authentic information of the resources and customs of the Indians—their past history and future prospects; and the committee hope there will be no hesitancy on the part of Congress in furnishing the means of correcting this omission.

To the honorable the Senate and House of Representatives of the United States.

The memorial of the undersigned, citizens of the United States, respectfully represents:

That the undersigned view with regret the imperfect and fragmentary character of our present knowledge of the Indian race. It is believed, that

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by a proper application of the means and opportunities in the possession of the government, acting through the Indian department, a vast body of valuable facts and materials could be collected together, not only to history and ethnology, but important, and indeed necessary, to enable government to perform its high and sacred duties of protection and guardianship over the weak and still savage race placed by Providence under its care.

The undersigned therefore respectfully pray your honorable body to direct the Indian bureau, through its existing organization of officers, and such other aids as its means may make available for the purpose, to collect and digest such statistics and materials as may illustrate the history, the present condition, and the future prospects of the Indian tribes in the United States. And your memorialists will ever pray, &c.

John Tracy

Charles H. Ruggles

John Romeyn Brodhead

Theodore Sedgwick

Charles A. Lee, M. D.

George Folsom

Theodore Dwight

Albert Gallatin

Wm. C. Bouck

John L. Stephens

Robert H. Morris

Alexander F. Vaché

C. C. Cambreleng

C. P. White

R. P. Marvin

John W. Brown

James Tallmadge

Charles P. Kirkland

Henry Nicoll

A. L. Jordan

W. G. Angel

Abel Huntington

Henry R. Schoolcraft

Henry C. Murphy

D. R. Floyd Jones

John Hunter

G. Kemble

L. Stetson

John R. Bartlett.

Mr. Schoolcraft, in adding his name to the above petition, and thus concurring in the general object thereof, begs leave to express the opinion that the end prayed for must depend essentially upon the character and amount of "such other aids" as Congress may grant, to enable the Indian department, in its existing organization, to act efficiently in the premises. This department is already burdened with duties, and it would be idle to expect it should seek to extend them without the specific directions of Congress. There is no want of "the application of its means and opportunities" now. But to collect a "body of valuable facts and materials," bearing on "history and ethnology," and so to shape them as "to enable the government to perform its high and sacred duties of protection and guardianship over the weak and still savage race placed by Providence under its care," is not a *slight*, and cannot be made a *casual*, labor. To attain so important an object, there should be a deliberate and clear expression of purpose and provision of means. The department is confined to the execution of duties imposed by laws or treaties, for which specific sums are appropriated. Even its contingent funds are strictly applicable to carry out these expressed objects, and none others; and the petitioners could not expect that the officers of the department would order a new species of inquiry, unless Congress should clearly denote its wishes, and at the same time provide in all respects for the object. Twenty-five years of congressional scrutiny have both absorbed unlimited Executive power, and rendered the

annual appropriations strictly specific. If the object prayed for is, as the petitioners state, important, it should be provided for independently, but not suffered to rely for its success upon the chance of its not conflicting with *other* duties and *other* funds. The officers of this department are appointed generally from the mass of citizens on the frontiers, to execute certain plain and expressed duties, and are not expected to enter into such researches. Their aid could be relied on, to a certain extent, with a small additional sum in each case to meet contingencies strictly arising from this duty. But, with every co-operation of this nature, there is a depth and purpose in the expressed views of the petitioners which could not be realized, in my opinion, unless the head of the bureau were authorized to employ, for the time being, a competent person, to devote himself exclusively to the inquiry, to visit the agents, superintend their labors herein, and take in hand the generic parts of the work, and report the results to government, in a complete form. For this, Congress should specifically provide.

NEW YORK, November 30, 1846.

WAR DEPARTMENT,
Office Indian Affairs, February 1, 1847.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th ultimo, accompanied by a memorial of the Hon. Albert Gallatin, Wm. C. Bouck, John Tracy, and others, that this office be required "to collect and digest such statistics and materials as may illustrate the history, the present condition, and the future prospects of the Indian tribes of the United States." You state that the Committee on Indian Affairs also desire to be informed what has been done under the law of the last session of Congress, requiring a census and statistics to be taken and collected, by the different agents and sub agents, of the Indians among whom they respectively reside; "what it is in the power of the department to effect, without additional means, and what sum will be necessary to collect the information called for in the memorial." The law referred to by you was approved June 27th, 1846; and subsequently, on the 7th of August, the Senate adopted a resolution requiring the Secretary of War "to avail himself of such means as may be afforded by the organization of the Indian department to collect all such information as may be practicable respecting the condition, habits, and progress of the Indian tribes of the United States, and to lay the same from time to time, as may be convenient, before the Senate." The law of 27th June last fixes no time within which the duties imposed upon the agents and sub-agents should be performed; but, desirous of making a report under it at the present session of Congress, the department, as promptly as possible, adopted a form as required by the law, prescribing the manner in which the census should be taken, and the points upon which statistics should be collected. It is regretted, that in consequence of the limited time, and of the agents being occupied with other important duties which could not be deferred, returns have not been received in relation to some of the tribes, such as the Cherokees, the Choctaws, and Chickasaws, whose advancement in civilization, and whose present condition and resources, probably render them objects of greater interest than almost any other of the tribes. The returns, as far as received, are embodied in the accompanying tabular statement and appended notes. From the limited time and the hurried manner in

which they had necessarily to be taken, they are probably not as accurate as could be desired, and are not therefore in any great degree to be relied upon. They are believed to be sufficiently so, however, to demonstrate one important fact—that the tribes having the least means or income, in the form of annuities, under their own control and direction, and who are necessarily compelled to rely upon their own exertions and prudence for the necessities and comforts of life, are by far the most enterprising, industrious, moral, and upright. Such tribes need only the establishment among them of manual-labor schools—the most efficient means yet discovered for the improvement of the Indian race—and some temporary aid in their agricultural and mechanical operations, until they could begin practically to reap the benefit of such schools, to make the most gratifying progress in acquiring the resources and habits of civilized life.

A census and statistics of the kind directed to be taken under the law of the last session, which are confined to the present condition, means, and resources of the different tribes, is of comparatively little interest or value for any practical purposes. Both the memorial and the resolution of the Senate contemplate something more: they require the collection of such materials as will illustrate their past history; explain their former, and account for their present condition; and afford some indication of their probable prospects in the future. In the opinion of this office, a well digested and arranged body of information, if it afforded nothing more than a correct view of the nature of the relations heretofore and now existing between the different tribes and the government, of the policy which has been pursued towards them, and its tendency and results, would be of considerable general interest, and of much value in the management of their affairs, and of our relations with them hereafter. We could thus see how far the tendency and practical effects of the policy of the government towards them has been, and is, beneficial or otherwise, and what changes or modifications, if any, should be made in it, in order more effectually to secure their present and future welfare and happiness.

In procuring information to this extent, other materials, such as those contemplated by the memorial, could, it is believed, at the same time be procured with not much additional labor and expense; which would show the origin of the different tribes; their numbers and condition at different periods; their peculiar manners, habits and customs, superstitions, religious belief, rites and ceremonies; the character and structure of their languages; and such other particulars as would illustrate their past and present condition and history, on all the points of any material interest or consequence.

With the means now possessed by the department, it would not be able in a satisfactory manner to procure and arrange more detailed and comprehensive materials than those contained in the accompanying statement. To collect and digest such as are desired by the memorialists would probably require a period of two years, and an outlay, to meet the expense incident thereto, of about five thousand dollars per annum, for which an appropriation would have to be made by Congress.

The memorial is herewith returned.

Respectfully, your obedient servant,

W. MEDILL.

Hon. JACOB THOMPSON,

Chairman Committee on Indian Affairs,

House of Representatives.

[illegible]

Census and statistics of the several Indian tribes—Continued.

Tribes.	Where located.	Agricultural assistants, turnished them by government.	Subsist by hunting.	Acres of land in culti- vation.	Product of wheat, in bushels.	Product of corn, in bushels.	Product of rye, in bushels.	Product of oats, in bushels.	Product of potatoes, in bushels.
Christian Indians	-	-	-	118	10	2,360	-	60	188
Delawares	-	-	-	1,381	1,043	27,620	-	2,215	2,766
Kickapoos	-	-	-	635	-	12,700	-	1,180	1,718
Shawnees	-	-	-	2,366	1,620	34,380	-	8,449	4,324
Stockbridges	-	-	-	171	-	4,700	-	180	354
Sacs and Foxes	-	-	2,443	35	-	700	-	-	-
Siouxs	-	-	-	-	-	-	-	-	-
Ottawas, Chippewas, & Pottawatomes	-	-	-	-	-	-	-	-	-
Pottawatomes	-	-	-	-	370	16,720	-	750	250
Ottawas	-	-	-	-	-	4,260	-	-	960
Chippewas	-	-	-	-	-	330	-	-	180
Peorias	-	-	-	-	-	1,050	-	180	-
Piankeshaws	-	-	-	-	-	1,181	-	260	-
Weas	-	-	-	-	-	2,087	-	-	320
Wyandots	-	-	-	885	150	23,400	-	287	5,663
Menomonies	-	-	2,200	150	-	500	-	200	1,000
Oneidas	-	-	-	2,800	2,000	3,000	-	2,500	-
Stockbridges	-	-	-	1,000	400	1,000	-	-	-
Seminoles	-	-	-	1,000	-	25,000	-	-	-
Ottawas	-	-	-	-	-	-	-	-	-
Chippewas	-	-	-	-	-	-	-	-	-
Pottawatomes	-	-	-	-	-	-	-	-	-
Miamies	-	-	21	3,175	-	15,346	-	-	24,996
Senecas, on Alleghany reservation	-	-	-	1,868	417	11,000	230	11,892	13,509
Senecas, on Cattaraugus reservation	-	-	-	1,863	1,856	8,170	15	7,850	4,000
Tuscaroras	-	-	-	2,134	2,245	3,555	-	2,028	1,385
Iowas	-	-	706	-	-	5,000	-	-	100
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Census and statistics of the several Indian tribes—Continued.

Tribes.	Where located.	Milch cows.	Other neat cattle.	Sheep.	Hogs.	Estimated value of agricultural implements.	Value of the product of their hunts annually.	Amount of their annuities.
Christian Indians								
Delawares		35	47	117	101	\$310	-	\$400
Kickapoos		419	619		1,257	3,675	-	6,500
Shawnees		183	162		690	1,845	-	5,000
Stockbridges		492	696	61	2,498	4,460	-	6,000
Sacs and Foxes		30	46		94	160		70
Sioux		-	-	-	-	750	\$4,500	81,000
Ottowas, Chippewas, and Pottawatomies								
Pottawatomies	Fort Leavenworth agency, north and south of Kansas river	85	285		392	1,500	1,750	40,912
Ottowas	Sac and Fox agency, on Osage river	61	149		291	500	800	33,300
Chippewas	St. Peter's agency, on St. Peter's river	6	12		8	50	250	2,600
Peorias	Council Bluffs sub-agency, on Missouri river	16	46		31	200	150	300
Piankeshaws	Osage River sub agency, on Osage river	27	30		21	250	260	800
Weas		31	52		131	300	370	3,000
Wyandots	Wyandot sub-agency, on Kansas river	159	269	20	1,443	4,400	-	17,500
Menomonies						800	20,000	24,000
Oneidas	Green Bay sub-agency, Wisconsin Territory	80	-	-	-	-	800	1,150
Stockbridges						-	-	1,280
Seminoles	Seminole sub-agency, north of the Canadian river	-	-	-	-	1,500	-	6,000
Ottowas								
Chippewas	Michigan superintendency, Michigan	16	163		756	1,000	-	67,593
Pottawatomies	Osage river sub-agency, south of the Osage river	70	150					
Miamies		142	232	70	670	3,640	-	62,418
Senecas, on Alleghany reservation		132	216	479	638	5,311	-	3,715
Senecas, on Cattaraugus reservation	New York sub-agency, New York	56	78	144	437	3,398	-	
Tuscaroras		-	-	-	-	300	-	
Iowas	Great Nemaha sub-agency, on Great Nemaha river	-	-	-	-	-	-	

Census and statistics of the several Indian tribes—Continued.

Tribes.	Where located.	Amount of annuities per capita.	Amount of annuities paid in money.	Amount of annuities paid in goods.	Tobacco furnished them by government annually.	Salt furnished them by government annually.	Iron and steel furnished them by government annually.
Christian Indians		\$3 72	\$400			\$100	\$220
Delawares	Fort Leavenworth agency, north and south of Kansas river	5 74	6,500				
Kickapoos		10 52	5,000			60	3,220
Shawnees		6 44	6,000				
Stockbridges		1 20	70				
Sacs and Foxes	Sac and Fox agency, on Osage river	38 37	81,000		\$600	200	660
Sioux	St. Peter's agency, on St. Peter's river						
Ottawas, Chippewas, & Pottawatomies	Council Bluffs sub agency, on Missouri river						
Pottawatomies		1 19	33,300		2,000 lbs.	160 bush.	1,850 lbs.
Ottawas		9 00	2,600				
Chippewas		9 50	300				
Peorias	Osage River sub-agency, on Osage river						
Piankeshaws		8 00	800				
Weas		20 00	3,000				
Wyandots	Wyandot sub-agency, on Kansas river	20 00	17,500				
Menomonies		10 00	20,000		2,000 lbs.	30 bbls.	\$220
Oneidas	Green Bay sub agency, Wisconsin Territory		11,500				440
Stockbridges		1 00	280				
Seminoles	Seminole sub-agency, north of the Canadian river	2 00	3,000	\$3,000			
Ottawas							
Chippewas	Michigan superintendency, Michigan	9 53	67,593		7,176 lbs.	100 bbls.	1,040
Pottawatomies	Osage river sub-agency, south of the Osage river				1,000 lbs.	160 bush.	220
Miamies		72 56					
Senecas, on Alleghany reservation		5 00	3,715	571			
Senecas, on Cattaraugus reservation	New York sub-agency, New York	5 50		937			
Tuscaroras				251			
Iowas	Great Nemaha sub-agency, on Great Nemaha river						

Census and statistics of the several Indian tribes—Continued.

Tribes.	Where located.	Schools.	Teachers.	Male scholars.	Female scholars.	Churches.	Male professors of religion.	Female professors of religion.
Christian Indians		1	1	19	13	1	13	27
Delawares		1	1	30	39	-	36	35
Kickapoos								37
Shawnees		3	4	43	42	2	91	84
Stockbridges		1	1	6	8	1	9	16
Sacs and Foxes								
Sioux								
Ottawas, Chippewas, and Pottawatomies								
Pottawatomies		3	6	68	72	3	540	610
Ottawas								
Chippewas						1	120	130
Peorias								
Piankeshaws								
Weas								
Wyandots		1	2	8	7	1	49	57
Menomonies		2	2	40	30	1	98	100
Oneidas		1	2	20	18	1	56	44
Stockbridges		2	2	35	40	2		
Seminoles		2	2	50	60	1		
Ottawas								
Chippewas								
Pottawatomies		12	16	228	254	10	295	367
Miamies								
Senecas, on Alleghany reservation		4	4	70	75	2	27	34
Senecas, on Cattaraugus reservation		6	6	124	90	2	36	49
Tuscaroras		1	1	21	31	1	22	44
Iowas		1	2	2	6	1	-	1

Census and statistics of the several Indian tribes—Continued.

Tribes.	Where located.	Sabbath schools.	Male scholars.	Female scholars.	Proportion that still adhere to their national or ancient religion.	Temperance societies.	Members of temperance societies.	Licensed traders.
Christian Indians								
Delawares	Fort Leavenworth agency, north and south of Kansas river	1	7	9				
Kickapoos		3	102	91				
Shawnees		1	25	27	2,443			4
Stockbridges	Sac and Fox agency, on Osage river							
Sacs and Foxes	St. Peter's agency, on St. Peter's river							
Stoux	Council Bluffs sub-agency, on Missouri river				250			5
Ottawas, Chippewas, and Pottawatomies								
Pottawatomies								
Ottawas								
Chippewas								
Peorias	Osage River sub-agency, on Osage river							1
Piankeshaws								
Weas								
Wyandots	Wyandot sub-agency, on Kansas river					1	110	1
Menomonies	Green Bay sub agency, Wisconsin Territory					1	90	3
Oneidas						1		1
Stockbridges	Seminole sub-agency, north of the Canadian river		50	50				
Seminoles								
Ottawas								
Chippewas	Michigan superintendency, Michigan							
Pottawatomies	Osage River sub-agency, south of the Osage river	10	221	245		12	1,514	
Miamies								
Senecas, on Alleghany reservation		2	15	20	9-10	1	70	
Senecas, on Cattaraugus reservation	New York sub-agency, New York	2	30	33		2	153	
Tuscaroras						1		
Iowas	Great Nemaha sub-agency, on Great Nemaha river	1	2	6	705			1

APPENDIX.

Notes of agent R. W. Cummins, in regard to the Christian Indians.

Their agricultural implements consist of hoes, axes, and plough-gear. I am clearly of opinion, that it would be very beneficial to these people to increase their agricultural implements; they greatly need about 15 yoke of oxen, 27 ploughs, 30 axes, 30 hoes, 16 pairs plough-gear, and 15 log chains.

The Christian Indians came here poor, and are still poor; the most of them occasionally hire to work for the white people, particularly in time of harvest, as they are good hands in the harvest field. All, or nearly all of them, are temperate. I think none of them ever use ardent spirits. They have the character of a moral, upright, and good people. It certainly would be a very fortunate circumstance for them to receive some assistance in the way of agricultural implements; sure I am, that hardly any thing could be given them that they need more.

Notes of the same agent, in regard to the Delawares.

Their agricultural implements consist of wagons, ploughs, hoes, axes, froes, iron wedges, plough gear, &c. It would, I have no doubt, be beneficial to the Delawares to increase the number of their agricultural implements; they need about 200 ploughs, 500 hoes, 250 axes, 200 pairs of plough-gear, 12 cross-cut saws, 50 handsaws, 50 drawing-knives, 200 augers, 200 chisels, and 1,000 gimlets. There is a provision in the supplementary article to the Delaware treaty of the 3d of October, 1818, in the following words: "and to supply them with all necessary farming utensils and tools necessary for building houses," &c. I do not consider that this provision has ever been complied with; a large appropriation was made by Congress to carry it into effect, a very small amount of which was used for that purpose, for the reason that the Delawares were not at that time an agricultural people; and I thought it would be a foolish expenditure of money to lay it out for agricultural implements they would not use, but trade them off for whatever they could get for them. The whole nation subsist entirely by agricultural pursuits. The Delawares are a sprightly, active, enterprising people; it is frequently said they go everywhere; they go to Texas, Santa Fe, Oregon, California, and all through the Stony mountains. When they leave home it is generally for a hunt; they seldom of late years return with any thing.

The worst evil I think the Delawares, and I may add all other Indian tribes in this country, have to contend with, at times, is the intemperate use they make of spirituous liquors. It is only a finable offence under the present laws to sell them spirituous liquors. I think, if the law went a little further and made the penalty imprisonment, in addition to the fine, that much good would result from it. There are very few of those fellows who vend spirituous liquors to the Indians that care for a fine; they have nothing, and consequently nothing can be collected from them.

Notes of the same agent, in regard to the Kickapoos.

Their agricultural implements consist of a few old wagons, ploughs, plough-gear, hoes, and axes. The Kickapoos certainly stand in need of agricultural implements. Those they have had I think they have taken good care of, and used them profitably; they need about 20 wagons, 90 ploughs, 85 pairs of plough-gear, 125 hoes, 20 log-chains, and 25 yoke of oxen. I think it best that these people receive their annuities in money. The Kickapoos are a lively, fearless, independent, persevering people. I think they use less spirituous liquors than any other people in this country, except the Stockbridges and Kansas.

Notes of the same agent, in regard to the Shawnees.

Their agricultural implements consist of wagons, carts, ploughs, hoes, axes, and plough-gear. The Shawnees never have had as many agricultural implements as they absolutely needed; they are an industrious people, and would engage in agriculture to a much larger extent than they do at present, if they had wagons and teams to haul rails to enlarge their farms, and other farming utensils to cultivate them. They need about 30 wagons, 125 ploughs, 230 axes, 450 hoes, and 75 log-chains.

I feel sure that it is best for the Shawnees and Delawares to receive their annuities in money, particularly the Shawnees; it enables them to purchase agricultural implements. I consider a large portion of the Shawnees temperate; many do not touch spirituous liquors at all; they are also an enterprising, industrious people, many of them highminded and honorable.

Notes of the same agent, in regard to the Stockbridges.

Their church regulations forbid the use of ardent spirits. Their agricultural implements consist chiefly of ploughs, plough-gear, hoes, axes, iron wedges, froes, drawing knives, augers, chisels, a few handsaws, one cross-cut saw, and a few wagons, but more sleds and truck-wheel wagons, (no iron about them,) made by themselves for the want of means to purchase wagons. It certainly would be very beneficial to these people to increase the number of the agricultural implements. The Stockbridges, I believe, are most all temperate; very few of them ever touch spirituous liquors. I consider them an honest, upright, and truthful people. As a proof of this, I will state that they came here poor, by water, without a horse, cow, wagon, or plough, and with but a very few tools of any description. They bought some on credit, pledging themselves to pay for them when they received their money from the sale of their lands in Wisconsin; for these tools they had to pay a high price. They all went to work as soon as they could get any thing to work with; with hardly an exception they have built comfortable hewn-log cabins, and have made farms of various sizes, and fenced them in with rails, well made; straight fences, rails

nicely made, and laid up. Upon their farms they raise plenty to subsist on; indeed, although poor, there are but few Indians in this country that live as comfortable as they do. They are industrious—take good care of every thing they have; and I will add, I do not believe that agricultural implements could be given to any of the red people that need them more. Only a part of their money for the sale of their lands was sent here; by the time it came, they were indebted for nearly the whole amount of it, and they paid it out as soon as they received it—many of them the last dollar they had.

Notes of agent John Beach, in regard to the Sacs and Foxes.

The means of subsistence which the Sacs and Foxes derive jointly from hunting and agriculture are very small, which arise in a great degree from the large annuities now received by them from the government; whence they have become more indolent and less addicted to hunting than formerly. In addition, their lands now afford but little game. Their annuities will in a few years be much reduced, and the necessity of their becoming cultivators must appear irresistible.

From the fact that the Sacs and Foxes only commenced their settlement here at a late period of the present season, the amount of their crop falls far short of what is usually raised by them. In 1845 the estimated quantity of corn raised was 1,500 bushels, beans 130 bushels; melons in large quantities are invariably planted, but never permitted to arrive at maturity, mostly through the instrumentality of the younger portion.

The agricultural implements mostly used by these Indians are hoes and ploughs of the ordinary kind. Their hoes are made by the smiths employed by the government among them, yet a thousand were purchased by me last spring.

There is an ample fund now on hand from which to supply them with any additional implements, should an increase of them appear necessary by another season. Probably a few ploughs will be needed, with harness, two or three wagons, and some work oxen. But in their present state, labor requiring employment of oxen and wagons could more beneficially be performed by contract, or hiring, than by supplying the Indians with such articles.

Their hunt since their removal to this country has been confined to the buffalo, which, probably, with a few deer, will continue to be their chief game. When in Iowa, in addition to the buffalo, muskrat, beaver, otter, and racoon, with deer, were usually found. The buffalo hunt of last summer, valuable only for the meat obtained, would not, at the value of beef, exceed \$1,500.

I have stated their annuities to be paid in money, but it should be remarked that two principal chiefs have annually \$500 each set apart for them, which is expended for such articles as they may need; and a retained fund of \$30,000 is kept, out of which articles are furnished for interring the dead, and for any purposes of general utility or charity which may demand its expenditure. Said fund being at each payment made up to its full amount, the balance only is really paid in money to the Indians.

During the past year, also a portion (\$7,683 19) of their annuity has been expended for provisions.

I deem it a question open to much discussion, whether or not it would be better for the Sacs and Foxes to receive their annuity in money, or in goods. Their goods pass at the whiskey shops for almost or quite as acceptable a currency as money; in fact, I am not sure if the venders of whiskey do not derive a more lucrative traffic when bartering for goods, as the Indian has a better idea of the worth of his money. Some years since, I expressed, in a communication to the department, my conviction that the welfare of the Indians could never be consulted but by a complete isolation of them from all white persons, except such as treaty or necessity requires (in which I would include all benevolent designs) the President of the United States to send among them. My opinions have not changed; but I believe that under the operation of such a system, besides their every real want being abundantly supplied, there would be a surplus of their means which they would willingly apply, under the advice of judicious friends, at least to efforts for their enlightenment and improvement. But this would involve a complete and radical disruption of present systems, and a wise divergence from a long beaten track, upon the practicability of which it may more properly devolve on others to decide.

At the only time at which I know of goods having been offered to these Indians, (in September, 1837,) the goods manifestly were not of as good quality, nor at as reasonable prices, as usually furnished by traders; nor had they been selected with a correct view to a proper adaptation to the wants of the Indians.

The Sacs and Foxes have made no advancement in learning, having hitherto resisted every effort, and rejected every invitation, for the establishment of schools or missions among them. But that this is the consequence of any inherent prejudice, or that it is based upon a fixed principle of their own, I deem more than questionable. Whenever they are called upon for a reply in such cases, it is invariably adverse. I look upon them as mere automata, governed by others, with whom motives of self-interest, for the time, predominate over the better principle which may naturally exist.

There are four trading companies resident among the Sacs and Foxes, employing a capital of about \$25,000, and from twenty-five to thirty persons with stocks of goods now upon their shelves to the value of \$50,000.

The Sacs and Foxes are lamentably intemperate, and usually, at every returning period of annual payment find themselves stripped of every thing not of indispensable necessity, wherewith the previous year had supplied them, which has been squandered in the gratification of their increasing and insatiable thirst for whiskey. In regard to uprightness and integrity, I have invariably claimed for them a high rank. Perhaps a strong partiality and attachment may have sometimes led me to portray a too highly colored picture, yet I cannot think so; and the fidelity with which in general they have conformed to their last treaty, besides comparing favorably with the conduct, under like circumstances, of other tribes, will, I trust, sustain the character ascribed to them.

Laws and regulations to suppress the traffic in liquor, even within the Indian country, it would seem, must partake more of an arbitrary charac-

ter than those now existing, in order to be effective ; and should also involve with their infraction penalties of the severest character. A mere pecuniary fine offers but little terror to one possessing nothing from which it could be collected, to which class most of those who introduce liquor to the Indian country belong. The penalty of imprisonment would seem more certain. Again : a general power to search all boats, wagons, &c., passing into the country, should be allowed to the officers. If it seem vexatious, most of those who would fall within its exercise (chiefly persons having no legitimate business in the country) are the very ones who are usually obnoxious, and could relieve themselves from it by remaining at home. But perhaps it is within the limits of the border States where this traffic is carried on most extensively and iniquitously ; and, in view of the constant evasion of the local laws, as well as of the difficulty of obtaining conviction, even upon detection, the entire prohibition and exclusion of the Indians from the settlements by law of the United States would prove most effective. The State laws forbid the Indian ingress to its borders ; but let the general government render the execution of such a restriction imperative upon the agent, and arm him with due power of enforcement, and much good might result.

Note of agent A. J. Bruce, in regard to the Sioux.

These bands and tribes of Sioux are all included in the St. Peter's agency, of which only the Mendawakantons (2,141) draw annuities.

Notes of sub-agent R. B. Mitchell, in regard to the united band of Chippewas, Ottowas, and Pottawatomies.

They took up the idea that government wished to tax their property, and they utterly refused to give me information necessary to base a satisfactory report upon. They have about 1,500 horses in the nation, a small number of hogs and cattle—say from four to five hundred. Perhaps there is one-half of the nation who subsist principally by agriculture and their annuities. The remaining half of the nation subsist by hunting and raising small patches of corn. There are two blacksmith shops supported by the government, and furnished with iron and steel, &c. They render ample service by furnishing them with traps, guns, knives, fire-steels, and such other articles as are necessary for their hunting excursions and farming operations. They have a grist and saw mill, and a miller, furnished by government ; he also renders them service in manufacturing their corn into meal, and by furnishing them lumber. For the last six months the mill has yielded a tolerable profit to the nation.

There are two half-breeds engaged as assistant blacksmiths ; but I fear their continuance will do but little, if any good. They have but few agricultural implements, and they of a very inferior character. I would recommend an increase of their agricultural implements when they remove to their new homes ; and if I remain with them, I will then give a statement of the number required, and the kind that would be most useful. The products of their hunts are principally deer,

muskrat, otter, beaver, coon, and wolf skins; the value I am unable to give, but it generally supplies them through the summer with food and necessary articles of clothing. This nation received an annuity of \$40,912 50, one-third of which, at least, is wasted with the whiskey sellers at or near the line of the State of Missouri. Some more effectual law should be passed to prevent the introduction of whiskey near the lines. I am of opinion that if the government would make a judicious selection of goods to the amount of at least one-half of their annuities, it would add much to the prosperity and happiness of the nation. Bacon and breadstuffs are always much needed here through the months of June, July, and August. If the government could advance them a portion of their annuities, at that season of the year, in breadstuffs and bacon, it would be much better for them than at any other season.

Notes of sub-agent A. J. Vaughan, in regard to the Pottawatomies, Ottawas, Chippewas, Peorias, Piankeshaws, and Weas.

The Indians engaged in trade are persons with small means, buying and selling provisions principally. The amount of capital invested, it is impossible to ascertain. Very few are regularly engaged in the mechanic arts, although some of them are good rough carpenters, stone masons, can fabricate household furniture for their own use, such as tables, stools, and most of them are capable of raising and finishing off their log-cabins; bedsteads, &c.; are handy with tools. Some are tolerable tailors; making their own blanket coats, or capes. Shoes are not much in vogue, buckskin moccasins having the preference.

The bulk of the corn raised by these people is of the small kind, called squaw corn; which they convert, while the grain is still soft, into sweet corn, by parboiling, then sun-drying, which they use as their general food—for hominy, soups, &c. The value of the agricultural products is estimated at the market price of the State of Missouri—that is, the border settlements—and not at the value the Indians themselves attach to such property, which is generally very exorbitant.

The agricultural implements in use amongst these people are such as those used by the small farmers of State settlements, viz: ploughs and plough-gear, hoes, axes, ox wagons, scythes, cradles, &c. Certainly it would be desirable to increase their stock of ploughs, (one-horse ploughs, to be worked by their ponies,) grass scythes, fan-mills, &c. As these Indians evince a very laudable desire to improve themselves in farming, an increase of their agricultural implements would no doubt lead to a good result. Amongst those under my charge, and to the industrious only, should be distributed at least 30 wagons and carts, 100 horse-ploughs and gears, 100 grass scythes, 5 fan-mills, 1,000 hoes, axes, &c.

The product of their hunts vary materially, according to the season: in mild winters the furs are not so good, nor so plenty, as in cold ones. They consist in racoon, deer, muskrat, otter, wolf, mink, &c. These Indians do not hunt the buffalo: their hunts generally take place (not so much with a view to profit, as to a desire for change) after their farming operations have terminated for the year, and the produce of their fields housed and secured.

The Indians under my charge do not receive any part of their annuities in goods. It is all paid in specie, pursuant to their treaty stipulations. But experience has taught me that the system should be changed entirely in relation to the manner that trade and intercourse are carried on with them. Could a change be brought about, by which they could receive their annuities in goods, provisions, &c., they certainly would derive much greater benefit. The kind, quantity, and description of goods used by them could be furnished by the government 50 per cent. cheaper than they are enabled to procure them under the present system. It is a notorious fact, that not more than one individual family in fifty have one dollar in hand 24 hours after they receive their annuity, having paid it out to their traders, at an exorbitant high price, and for many articles entirely valueless. It is well known to those who are acquainted with the Indian character that it is their nature, whenever an article strikes their fancy they will have it, cost what it may. They are an improvident race of the human family; they never look beyond the present. Another very important consideration why a general change should be made in the trade and intercourse with the Indians is, that there are so many conflicting interests that it keeps the traders and the Indians in a constant state of excitement. I am satisfied from experience that but few whites should be suffered to remain in the Indian country: they put bad ideas and notions in the heads of the Indians, which they are eager at all times to catch at; consequently produces dissatisfaction and restlessness, that cannot be quieted. I feel satisfied, should the change be effected as suggested above, that strong objections would be urged against it, (not by the aborigines,) and no pains or exertions would be spared to impress upon their minds the ruinous consequences that would result from it; but one twelve-months' operation would satisfy them that it would be greatly to their interest and convenience.

The Pottawatomies only receive tobacco, salt, iron, and steel, by virtue of their treaties: half of the iron and steel they throw into the government smith shops. Nothing is furnished to the other bands.

The schools of the Pottawatomies are conducted by the missionaries of the Catholic and Baptist churches. The Wea school is likewise under the direction of the Baptist church. The children of parents attached to the Methodist Episcopal church are generally sent to the Shawnee mission manual-labor school. The scholars taught in the schools here (in this sub-agency) go through the rudiments of an English education, and some are proficient in reading, spelling, writing, and figures; the females, moreover, are taught sewing, knitting, tailoring, and the domestic arts.

The principal church among the Pottawatomies is the Catholic, to which persuasion are attached most of the Peorias and some Ottowas. The other churches are the Baptist and Methodist, among the other portion of Pottawatomies, Ottowas, Chippewas, Piankeshaws, and Weas. Those who still adhere to their ancient rites are a small band of Pottawatomies, who, although surrounded by so many good people, still cling to their old religion, if the last term may with propriety be used. The general character of these Indians for integrity and uprightness is without reproach; those attached to the churches are temperate. There are no temperance societies. The adherents of the old customs will drink liquor during their religious medicine dances, but they are by no means sots or

habitual drunkards. They will drink and have their frolics and dances three or four times a year; at other periods, they are as peaceable and as manageable as the others. The traffic in liquor is carried on by persons residing within the State of Missouri, immediately on the line. They are out of the control of the agent or sub-agent; they are generally known as whiskey-sellers; their names are familiar to all. The law of the State of Missouri seems to be a dead letter as regards these whiskey sellers, for they carry on their nefarious trade with impunity. In order to punish such men, the Indians should be permitted to give evidence; an attorney should be appointed by the Indian department to advise with and render assistance to the agent or sub-agent, and to conduct suits, which ought to go before the United States district court.

The appointment of an attorney, to be consulted in reference to Indian matters, and living within a reasonable distance of the Indian territory, would be of great service to the cause of humanity.

Notes of sub-agent R. Hewitt, in regard to the Wyandots.

Herewith I forward you the statistical information, together with a census of the Wyandot nation of Indians, under my charge, as directed by the circular of September 1, 1846. The procuring of this information has been attended with some difficulty and labor. Notwithstanding, I believe the facts set forth are generally correct.

You will discover that the Wyandots depend upon the cultivation of the soil for their subsistence. Correct their intemperate habits, and they are at once a happy and prosperous people. Much has been said and written upon this subject. My own opinion is, that the Indians will drink as long as there are white men found to furnish them the liquor; it would seem that they cannot control their propensity for whiskey. They will exchange their last mouthful of bread for it, and we have men among us who are mean enough to take advantage of their uncontrollable appetite.

Notes of sub-agent Albert G. Ellis, in regard to the Menomonies.

These Indians are strictly honest; they are intemperate, but civilization will reclaim them. The farming band, which is increasing, is evidence of this, there being comparatively less intemperance among them than the balance of the tribe. There is not a necessity so much for further legislation to suppress the traffic in liquor, as for the means of enforcing the laws already existing.

This report is necessarily, from the brief time allowed, very imperfect. At the coming annuity payment, opportunity will be sought to perfect it.

Notes of the same sub-agent, in regard to the Oneidas.

These Indians are all farmers, and live almost exclusively by cultivating the soil. They have cleared their farms from the heavy timber; they are

well fenced—have on them some 100 houses, log and frame, and 75 or 80 barns. A good proportion of the tribe are sober; a large portion still adhere to intemperance. No liquor is sold on the reserve; they obtain it at the dram-shops in Green Bay.

They have not a proper sense of the importance of learning the English language. Until they have, they must remain comparatively in a state of ignorance, and be the prey of designing white men.

Notes of the same sub-agent, in regard to the Stockbridges.

This tribe is civilized; speak and write the English language. Three years ago an act of Congress passed admitting them citizens of the United States; but a part of the tribe availed themselves fully of this law. At the late session of Congress the law was repealed. About half the tribe still maintain that they are, and will ever remain, citizens of the United States.

They are a sober, industrious, well-behaved people, and only need quiet to make them happy.

Notes of sub-agent M. Duval, in regard to the Seminoles.

Their agricultural implements consist principally of axes, hoes, ploughs, grubbing hoes, &c., and the quantity, as at present distributed, is sufficient. Have no schools, and they don't want any.

The foregoing is sent for what it is worth, merely to comply with the request of the department, as the circular was not received before my arrival here, (Washington,) and consequently I am forced to *guess* the answers to the queries. At a future time I will, if it is desired, collect correct information, which may be acted on.

Notes of acting superintendent William A. Richmond, in regard to the Ottowas, Chippewas, and Pottawatomies.

The articles of agricultural implements consist of ploughs, harrows, hoes, log-chains, axes, saws, and such other articles as are generally required for farming purposes.

Many of the Indian bands are making considerable progress in the cultivation of the soil, and in a great measure depend for their subsistence from that source. It seems to me that it would be humane, as well as a wise policy in the government, to encourage the different tribes in their efforts to abandon the chase and depend on the cultivation of the soil for subsistence, by giving them additional means to carry them on with success.

The value of their annual hunts could not be ascertained with any degree of accuracy, as the Indians (except in very few instances) keep no account of them.

From all the information which has come to my knowledge, I am de-

cidedly of opinion that many of the Indians in this superintendency are advancing in learning, as well as in the social relations of civilized life.

The Indians within this superintendency, (recently,) from the efforts of the missionaries, &c., have become quite temperate; but when in the way of temptation, many still indulge in the use of intoxicating drinks, though, on the whole, I think that a very great reformation has taken place amongst them.

Notes of sub agent J. Sinclear, in regard to the Miamies.

The Miamies, with a very few exceptions, are in the habit of getting intoxicated whenever they can obtain liquor; and it is very difficult to get along at our necessary councils or payments without more or less drunkenness. In the Indian country it may be in the power of an agent to prevent the selling of liquor to the Indians; it cannot be done in any other.

Whenever a tribe of Indians become as deeply indebted as the Miamies are, no reliance can be placed upon their integrity; the traders will induce them to disregard their obligations to the government.

Notes of sub-agent Wm. P. Angel, in regard to the Senecas on Cattaraugus reservation.

The above enumeration includes only about one-fourth of the population, and about one-half of the improvements, agricultural productions, and stock. The balance of the inhabitants refused to give the necessary information.

The implements in use are such as are usually used by the farmers in the neighborhood, to wit: ploughs, harrows, hoes, and axes, together with wagons, sleds, chains, yokes, and harness.

Note of the same sub-agent, in regard to the Tuscaroras.

The Tuscaroras receive no annuity except their portion of the goods paid to the Six Nations.

Notes of sub-agent W. E. Rucker, in regard to the Iowas.

In furnishing the above statistics, we have been compelled to resort to the best sources of information within reach, and thence form estimates. Those items enumerated in the prescribed form, which are not here produced, I have left blank.

Since the Indians live partly by hunting and partly by agriculture, it is impossible to distinguish them, in accordance with the prescribed

form. Their agricultural implements consist mostly of hoes and axes. I cannot advise an increase of agricultural implements at present.

The products of their hunts consist principally of buffalo meat, venison, and deer-skins, with very few furs.

I would advise the payment of their annuities in money. Whether the goods furnished by government are of as good quality, or as cheap, as those sold by the traders, I am not able to say, since I have had no opportunity for judging.

Of the pupils taught in the school, two are quite advanced in reading, writing, &c., and speak English well; the other six are spelling, having just commenced with the opening of the school.

I regret having to repeat the oft-told tale of the intemperate habits of the Iowas. It is a painful fact that no artifice which they can invent is left untried to obtain that which drowns their reason and corrupts their integrity. They have been known in some instances to come from their sinks of pollution, which infest our borders, in cold weather, nearly in a state of nature, leaving leggins and moccasins behind.

I know not what more effectual means can be devised for the suppression of the traffic in spirituous liquors than making it a penitentiary offence.

These cases have been examined by the committee on the subject, and with reported, directing the Secretary of the Interior to report thereon, and just and equitable principles. The committee on the subject will explain the claims.

Sir, In reference to the claim of Barclay & Livingston, and Smith, Thurgar & Co., I have to state that the article in question was imported from England, and was subject to duty at the ports with a duty of 30 per cent. ad valorem, as provided in the tariff act of 1842, (2d sec. 3d section) the department, on appeal of the importers, decided that it was entitled to enter as a duty of 5 per cent. ad valorem, as "floor matting, made of flags or other material," under the 4th paragraph of the same section. The excess of duty paid was consequently refunded in cases where, the duties being paid under protest, the department had legal power to return the excess. In a claim then presented by Smith, Thurgar & Co., no such protest being shown, the parties applied to Congress for relief, and the excess has been paid under the act of 8th August, 1846, "to refund to certain persons an excess of duty exacted on the importation of foreign merchandise."

The tariff act of 1842, under which the importations now in question, of Barclay & Livingston, and Smith, Thurgar & Co., were made, charges in the 3d paragraph of the first section a duty of 30 per cent. on certain "carpeting of wool, hemp, flax, or cotton, or parts of either, or other material not otherwise specified;" and this duty, it appears, had been levied upon the importations in question; but *floor matting*, as contradistinguished from *carpeting*, is distinctly specified, in the 4th paragraph of the third section of the act, as "Chinese or other floor matting, made of flags, jute, or other material," as a duty of 25 per cent. ad valorem; and the excess of 5 per cent. is due.

form. Their agricultural implements consist mostly of hoes and axes. I cannot advise an increase of agricultural implements at present. The products of their hands consist principally of buffalo meat, venison, and deer skins, with very few furs. I would advise the payment of their annuities in money. Whether the goods furnished by government are of as good quality or as cheap as those sold by the traders, I am not able to say, since I have had no opportunity for judging.

Of the pupils taught in the school, two are quite advanced in reading, writing, &c., and speak English well; the other six are spelling, having just commenced with the opening of the school. I regret having to repeat the old tale of the intemperate habits of the lower. It is a painful fact that no student which they can invent is not united to obtain that which shows their reason and corrupts their integrity. They have been known in some instances to come from their state of pollution, which infect our borders in cold weather, nearly in a state of nature, leaving legions and diseases behind. I know not what more effectual means can be devised for the suppression of the traffic in spirituous liquors than making it a penitentiary of the nation. I am, however, all of me to the best of my power.

Notes of sub agent Wm. P. Angel, in regard to the Seneca in Catta-
wagus reservation.

The above enumeration shows the condition of the Seneca reservation. It is a small reservation, and the Seneca are a small tribe. The reservation is situated in the State of New York, and is bounded by the Seneca River. The reservation is situated in the State of New York, and is bounded by the Seneca River. The reservation is situated in the State of New York, and is bounded by the Seneca River.

BARCLAY AND LIVINGSTON, AND SMITH, THURGAR & CO.

[To accompany bill H. R. No. 656]

FEBRUARY 16, 1847.

Mr. GORDON, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom were referred the cases of Barclay and Livingston, and Smith, Thurgar & Co., report :

These cases have been examined by the committee, and a bill is herewith reported, directing the Secretary of the Treasury to settle them upon just and equitable principles. The annexed letter from the Secretary will explain the claims.

TREASURY DEPARTMENT,
February 6, 1847.

SIR: In reference to the claims of Barclay & Livingston, and Smith, Thurgar & Co., mentioned in your note of the 22d ult., I have to state that the article in question, *jute matting*, having been charged at some of the ports with a duty of 25 per cent. ad valorem, as "carpeting," under the tariff act of 1832, (2d par., 2d section,) the department, on appeal of the importers, decided that it was entitled to entry at a duty of 5 per cent. ad valorem, as "floor matting, usually made of flags or other materials," under the 4th paragraph of the same section. The excess of duty paid was consequently refunded in cases where, the duties being paid under protest, the department had legal power to return the excess. In a claim then presented by Smith, Thurgar & Co., no such protest being shown, the parties applied to Congress for relief, and the excess has been paid under the act of 8th August, 1846, "to refund to certain persons an excess of duty exacted on the importation of foreign merchandise."

The tariff act of 1842, under which the importations now in question, of Barclay & Livingston, and Smith, Thurgar & Co., were made, charges in the 3d paragraph of the first section a duty of 30 per cent on certain "carpeting of wool, hemp, flax, or cotton, or parts of either, or other material not otherwise specified;" and this duty, it appears, had been levied upon the importations in question; but *jute matting*, as contradistinguished from *carpeting*, is distinctly specified, in the 4th paragraph of the third section of the act, as "Chinese or other floor matting, made of flags, *jute*, or grass, &c.," at a duty of 25 per cent. ad valorem; and the excess of 5 per

cent. would be returned to the importers, if the proof of protest were produced, bringing the claims within the power of the department to settle. Messrs. Barclay & Livingston, and Messrs. Smith, Thurgar & Co., have been addressed on this point by the department; but no satisfactory proof being adduced authorizing further action by the department, the papers enclosed in your note are herewith returned, a single addition being suggested to the bill, designating the description of the article in view.

Very respectfully, your obedient servant,

R. J. WALKER,
Secretary of the Treasury.

Hon. S. GORDON,
Chairman of the Com. of Claims, House of Reps.

REPORT:

The Committee of Claims, to whom were referred the cases of Barclay and Livingston, and Smith, Thurgar & Co., report:

These cases have been examined by the committee, and a bill is now with reported, directing the Secretary of the Treasury to settle them upon just and equitable principles. The annexed letter from the Secretary will explain the claims.

THESE CASES
February 6, 1847.

Sir: In reference to the claims of Barclay & Livingston, and Smith, Thurgar & Co., mentioned in your note of the 23d ult., I have to state that the article in question was woolen yarn, having been charged at some of the ports with a duty of 25 per cent ad valorem, as "exporting," under the tariff act of 1832, (2d sec., 2d par., 2d section), the department, on appeal of the importers, decided that it was entitled to duty at a rate of 5 per cent ad valorem, as "floor matting, usually made of flax or other materials," under the 5th paragraph of the same section. The excess of duty paid was correspondingly refunded in cases where the duties being paid under protest, the department had legal power to return the excess. In a claim then presented by Smith, Thurgar & Co., no such protest being shown, the parties applied to Congress for relief, and the excess has been paid under the act of 8th August, 1846, "to refund to certain persons an excess of duty exacted on the importation of foreign merchandise."

The tariff act of 1842, under which the importations now in question of Barclay & Livingston, and Smith, Thurgar & Co., were made, charges in the 3d paragraph of the first section a duty of 30 per cent on certain "carpeting of wool, hemp, flax, or cotton, or parts of either, or other material not otherwise specified," and this duty, it appears, had been levied upon the importations in question; but yet matting, as counterpane, is distinctly specified in the 5th paragraph of the third section of the act, as "Chinese or other floor matting, made of flax, jute, or grass, &c.," at a duty of 5 per cent ad valorem; and the excess of 5 per

Richard B. Hunt, printer.

OREGON TERRITORY.

[To accompany bill H. R. No. 658.]

FEBRUARY 16, 1847.

Mr. McCLEARNAND, from the Committee on Public Lands, made the following

REPORT:

The Committee on Public Lands, to whom was referred so much of the annual message of the President of the United States as relates to the territory of Oregon, in the following words, to wit: "It will be proper, also, to establish a surveyor general's office in that territory, and to make the necessary provision for surveying the public lands, and bringing them into market. As our citizens who now reside in that distant region have been subjected to many hardships, privations, and sacrifices in their emigration, and by their improvements have enhanced the value of the public lands in the neighborhood of their settlements, it is recommended that liberal grants be made to them of such portions of these lands as they may occupy, and that similar grants or rights of pre-emption be made to all who may emigrate thither within a limited period, to be prescribed by law:"—have had the same under consideration, and report the following correspondence, and also a bill.

HOUSE OF REPRESENTATIVES,

January 11, 1847.

SIR: As a member of the "Committee on Public Lands," I have the honor to address to you the following interrogatories upon a subject depending before that committee.

First. Is it advisable to establish a "base line" and "meridian" in the terms of any law to be enacted directing the survey of the public lands in the territory of Oregon?

Secondly. Is it advisable to limit the surveys of said territory to any particular part of the same; and if so, to what part? Whether to the region between the Rocky and Blue mountains, or to the region between the Blue and the Cascade mountains, or to the region between the last-mentioned range and the Pacific ocean, or to any other part less than the whole?

Thirdly. Is it advisable at present to establish a system of land sales in said territory; and if so, what price per acre would probably reimburse to the government the cost of acquiring, surveying, and disposing of said lands?

Your early attention is respectfully invited to these questions, with the hope and belief that the answers to be afforded will prove highly useful.

Your obedient servant,

JOHN A. McCLERNAND.

Hon. ROBERT J. WALKER,
Secretary of the Treasury.

P. S.—The above is the substance of a letter addressed to the Secretary of the Treasury.

GENERAL LAND OFFICE, *January 12, 1847.*

SIR: In accordance with your directions, endorsed on the inquiries of the Hon. J. A. McClernand, of yesterday, I have the honor to report:

1. That from the best information in this office, the forty-second parallel of north latitude would probably form the best base line; and, from the nature of the country, a line running north and south, through the mouth of the Willamette river, the most suitable meridian for the surveys in Oregon; and to establish those lines by law would avoid an expensive and laborious investigation to ascertain whether any better can be found, and prevent uncertainty and delay in commencing operations; hence it would appear advisable to do so.

2. That portion of Oregon lying between the Rocky and Blue mountains is represented as rocky, broken, and barren, stupendous mountainous spurs traversing it in every direction, affording but little level ground, while in its most elevated parts snow lies nearly all the year; it rarely rains there, and no dew falls. The region between the Blue and Cascade mountains consists, it is stated, for the most part of a light sandy soil, the valleys being rich alluvion, and the hills barren. The country between the Cascade mountains and the Pacific, in which it is suggested above that the base line and meridian shall be established, is represented as well adapted for agriculture and stock farms.— That the most of it is well timbered with fir, pine, spruce, oak, poplar, maple, &c., while the grass, either green or dry, furnishes a nutritious food for cattle, on which they subsist in good condition throughout the year. Hence it would probably be expedient to require the first surveys to be made in this region, and authorize the extension of them as the wants of the settlers and the public interests may require.

3. Until the surveys shall have progressed considerably, it is not probably necessary to establish a land office in Oregon. The President could be authorized, however, as has been done in several cases, to establish a land office at the most convenient point within the surveys, after they shall have been made, and appoint land officers.

In the mean time the surveyor general could be authorized to receive, note, and file all applications or documents in relation to claims or titles to lands in that region, and to issue such evidences of title as would prevent conflict or collision amongst the settlers.

Estimating the cost of surveying in Oregon at the highest price now paid, to wit, eight dollars per mile, and making a very liberal allowance for meanders, the whole, embracing all expenses incident thereto, as salary

of surveyor general, clerk hire, &c., will not probably exceed 5 cents per acre.

The actual average cost of selling and managing the public lands, embracing every expense connected therewith, has been found upon examination to be $5\frac{1}{10}$ cents per acre; total, $10\frac{1}{10}$ cents per acre.

If it be determined that these lands shall reimburse the government for every outlay, the average cost of extinguishing the Indian title should be added to the above, if the wandering tribes in that region can be considered as having any right in the soil. Estimating the average cost of extinguishing their title to be the same as that paid the Indians in the west and south, it would amount to about $9\frac{1}{10}$ cents per acre, making the total cost $19\frac{1}{10}$ cents (say 20 cents) per acre. Mr. McClernand's letter is herewith returned.

With great respect, your obedient servant,

JAMES H. PIPER,

Acting Commissioner.

Hon. R. J. WALKER,

Secretary of the Treasury.

Eleven and Green proposed to take the mails over the route from
St. Louis, by Jonesboro, and the other three by Rail-
road, in two horse coaches, for

of surveyor general, clerk hire, &c., will not probably exceed 5 cents per acre. The actual average cost of selling and managing the public lands, embracing every expense connected therewith, has been found upon examination to be $5\frac{1}{4}$ cents per acre; total, $10\frac{1}{4}$ cents per acre.

If it be determined that these lands shall reimburse the government for every outlay, the average cost of extinguishing the Indian title should be added to the above, if the wandering tribes in that region can be considered as having any right in the soil. Estimating the average cost of extinguishing their title to be the same as that paid the Indians in the west and south, it would amount to about $9\frac{1}{4}$ cents per acre, making the total cost $19\frac{1}{4}$ cents (say 20 cents) per acre. Mr. McChesnut's letter is herewith returned.

With great respect, Your obedient servant,

JAMES H. PIPER,

Attorney General.

Hon. R. J. Walker, Secretary of the Treasury.

MAIL ROUTE FROM BLOUNTSVILLE TO KNOXVILLE.

FEBRUARY 16, 1847.

Mr. HOPKINS, from the Committee on the Post Office and Post Roads, made the following

REPORT:

The Committee on the Post Office and Post Roads, to whom was referred the resolution of the House of the 2d January, 1847, instructing them "to take into consideration the propriety and necessity of re-establishing immediately a line of four-horse coaches from Blountsville to Knoxville, in the State of Tennessee, which has, after a period of thirty years or more, been reduced by the Postmaster General, at the recent lettings, to a one-horse mail," respectfully report:

That prior to the passage of the act of March 3d, 1845, "to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenue of the Post Office Department," that department, as then authorized by law, prescribed the kind of service which it would require on the several routes, and issued its advertisement for proposals, and made its contracts accordingly. The whole subject was left to the discretion of the Postmaster General.

But, by the 18th section of the above act it is provided "that it shall be the duty of the Postmaster General, in all future lettings of contracts for transportation of the mail, to let the same in every case to the lowest bidder tendering sufficient guarantees for faithful performance, without other reference to the mode of such transportation than may be necessary to provide for the due celerity, certainty, and security of such transportation."

This section, it will be perceived, takes away from the Postmaster General the large discretion previously confided to him, and peremptorily requires of him in every case to accept "the lowest bidder" tendering sufficient guarantees, and with no other reference to the mode of transportation than may be necessary to provide for its "due celerity, certainty, and security." It leaves him, in fact, no further or other discretion in the premises than to judge of the means necessary for the due "celerity, certainty, and security," in transportation of the mails.

The above route was let under this law, and under an advertisement for proposals having an express reference to its provisions. Several bids for the route were received, and the following were respectively the lowest for the different kinds of service:

Blevins and Green proposed to take the mails over the route three times a week, by Jonesborough, and the other three by Rutledge, in two-horse coaches, for - - - \$5,998

George W. Hopkins, the present contractor on the line between Wytheville and Blountsville, proposed to perform the same service in four-horse coaches for	-	-	-	\$8,500
J. & W. K. Blair proposed to perform the same service, with "due celerity, certainty, and security," for	-	-	-	\$3,875

The Postmaster General was bound to select between these bids. The guarantee to each was unexceptionable. There could be no doubt which was the "lowest," and the "*due celerity, certainty, and security*" were expressly guarantied and provided for. The last named of these bids was accepted by the Postmaster General; and, in the opinion of your committee, he could not legally have accepted any other. However desirable the higher grade of four-horse coach service may have been, and however long it might have pre-existed on this line, the law prohibited him from again employing it if he could get the mails transported with "*due celerity, certainty, and security*," at a less cost.

Nor are the committee prepared to recommend the passage of a special act, limited in its operations to the route in question, as a remedy for any grievance or inconvenience resulting from the change. That route is doubtless an important one. The alleged grievance under which it labors is clearly the result of a general law, and not of any action, either of the Postmaster General or others, peculiar to the route itself. There are also other important routes in the Union that are, for the same reason and under the same general law, deprived of such service. If, therefore, there be any thing wrong in this respect, it seems to your committee that the remedy should be found in general and not in special legislation; and, with the view of bringing this subject before Congress, and of testing the sense of that body as to the expediency of repealing the 18th section of the act of the 3d of March, 1845, the committee have authorized a bill to be reported for that purpose.

But by the 18th section of the above act the duty of the Postmaster General, in all future lettings of contracts for transportation of the mail, to let the same in every case to the lowest bidder tendering sufficient guarantees for faithful performance, without other reference to the mode of such transportation than may be necessary to provide for the due celerity, certainty, and security of such transportation.

This section, it will be perceived, takes away from the Postmaster General the large discretion previously confided to him, and peremptorily requires of him in every case to accept "the lowest bidder," tendering sufficient guarantees, and with no other reference to the mode of transportation than may be necessary to provide for its "*due celerity, certainty, and security*." It leaves him, in fact, no further or other discretion in the premises than to judge of the means necessary for the due "*celerity, certainty, and security*," in transportation of the mails.

The above route was let under this law, and under an advertisement for proposals having an express reference to its provisions. Several bids for the route were received, and the following were respectively the lowest for the different kinds of service:

Blivins and Green proposed to take the mails over the route three times a week, by Jonesborough, and the other three by Ratledge, in two-horse coaches, for

\$2,998

Johnnie & Hens, per

WILLIAM TRIPLETT.

[To accompany bill H. R. No. 659.]

FEBRUARY 16, 1847.

Mr. BOWLIN, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of William Triplett, of St. Louis county, Missouri, praying to be confirmed in his pre-emption entry of a quarter section of land, make the following report:

It appears from the petition, affidavits, and papers in this case, that William Triplett, the petitioner, about the 1st of March, 1820, settled upon the land in question, it being the southeast quarter of section 36, township 45, range four east, and has continued to reside upon it with his family ever since, improving and cultivating it. The settlement upon the land above specified was made under the following circumstances: The land in question was claimed by one John Caldwell, under and by a claim from the Spanish government, which was the subject of subsequent confirmation, and doubtless would have been confirmed by the last board of commissioners at St. Louis, had the claim been prosecuted before them. That the said petitioner, immediately after the purchase, settled upon the land, and improved it by building houses and cultivating. That the petitioner continued to improve and put costly and expensive buildings upon the same, treating it, as he affirms he believed it to be, his property, without any further action on his part. That about the time he settled and purchased this tract, one Caleb Carman settled upon the adjoining 80 acre tract, but in a different section, and subsequently proved up a pre-emption right, and entered it many years ago. Carman called the place he settled Manchester, but no village was ever laid out by him. After Carman's death his children sold out to one Robinson, who about the year 1836 laid out a village on the said 80-acre entry. That the division between them was only a mathematical line, and both improved up near the dividing line where it crossed the road leading from St. Louis to Jefferson City, which brought their improvements close together. That the petitioner built several buildings, such as a tavern-house, storehouse, grocery, and blacksmith and wagon-maker's shop, &c., which, with the buildings on the other side of the line, gave it the appearance of a very small village, and it took the name originally given by Carman to his place, "Manchester." That Robinson subsequently sold out lots, and consequently a small village has sprung up upon and around the said tract of land.

The petitioner being wholly ignorant of what was necessary to protect his rights, and being a man of domestic habits, staying upon and improving his place, gave himself no care upon the matter until after the passage of the pre-emption act of 1838, when the nature of his title became for the first time the subject of speculative investigation. Finding for the first time his title under Caldwell questioned, because he had neglected to have it confirmed, the petitioner, at great expense, repaired to the city of Washington in the winter of 1838-'9, with a view to procure its confirmation by a special act of Congress. That upon submitting his papers to legal and intelligent gentlemen in and out of Congress, he was advised that it was a proper subject for confirmation by special act; but as the petitioner had much at stake, had lived eighteen consecutive years upon the land, and as the confirming acts theretofore had declared the lands unconfirmed public lands, and as the quarter section would embrace all his principal improvements, he was advised to go home, prove up his pre-emption to the quarter, and enter it, abandoning his unconfirmed claim. He did so; and upon returning to St. Louis found the order from the department to that effect, and thereupon, in February, 1839, proved up his pre-emption, and entered the land. That between the period of his entry and January, 1840, he had sold and deeded several pieces or lots of the same, laying out a part of it as a village, connecting with what Robinson had previously laid out. That in January, 1840, he received a notification that his entry had been cancelled in the General Land Office, and an order to receive the money he had paid upon his entry, upon the alleged grounds that his entry in part embraced the village of Manchester.

The following is a copy of the letter from the Commissioner of the General Land Office to the register and receiver at St. Louis:

GENERAL LAND OFFICE,
January 14, 1840.

GENTLEMEN: The letter of the register, of the 26th ultimo, in relation to the claim of Wm. Triplett, under the act of 1838, for the southeast quarter of section 36, township 45, range 4 east, has been received. He states that since this claim was approved by you upon the proof filed, (and now in this office, with his certificate No. 11171,) it came to your knowledge that he, before and after the 26th May, 1830, had sold to certain individuals small tracts of land in the southeast quarter of section 36, giving his bond to purchasers that he would make a good title to the property whenever his claim should be finally confirmed; and that to others he leased or rented small portions of said southeast quarter; which settlement now forms part of the unincorporated town of Manchester. The questions asked are, whether, if these facts had been known prior to the entry, you could have permitted the same; and whether any or all those individuals who have entered upon the land either by virtue of a sale from Triplett, or under an agreement to pay him a yearly or monthly rent, can rightfully claim the benefit of the act of 22d June, 1838: can they, with propriety, swear that they have entered upon the land in their own right, and exclusively for their own use and benefit? To all these questions I must answer in the negative. The law gave you no jurisdiction over the land; and under it you had no power to entertain the claim of any individual. It was expressly reserved from the operation of that act, and the instruction of 3d July, 1838, (page 3, paragraph 8,) points to the portion

of the act by which such reservation was made. It may be further remarked, that even if the law had given you jurisdiction, the contracts entered into by Mr. Triplett would have violated his claim; and the claims of any other person holding under him would have been also void, inasmuch as they could not swear truly that they entered upon the land in their own right. The entry of Mr. Triplett being null and void, I have cancelled his certificate; and the receiver is hereby authorized to refund to him the amount of purchase money paid for the said southeast quarter 36, township 45, range 4 east, taking a receipt for the same, which he will forward with his account current for the quarter in which the repayment may be made, having reference to the date of this communication.

Respectfully, your obedient servant,

JAS. WHITCOMB.

REGISTER and RECEIVER,

St. Louis, Missouri.

The petitioner, relying upon the equity of his claim, and the ultimate justice of the government, has never received back his purchase money, as directed in the above letter. This letter appears to be an answer to a letter from the receiver at St. Louis, in which he states that it having come to his knowledge that the entry embraced a portion of the unincorporated village of Manchester subsequent to the entry, he submits the question, in effect, whether, if that fact had been known, he ought to have allowed the entry. It is apparent, as warmly alleged by the petitioner and those interested with him, that this decision was made upon an assumption of facts, without any legal or even informal proof to sustain them. There is nothing in the record affording any evidence of the *fact* upon which the claimant's entry is set aside, except the register's assertion that such a thing "*has come to his knowledge*." An indefinite kind of evidence, to say the least of it, upon which to adjudicate and decide title—without even a chance to rebut it.

Upon this state of facts, the petitioner, together with all his neighbors, on and off the land, who are familiar with the equity of his claim, ask the interposition of Congress to confirm his entry, and direct his patent to issue for the land.

There appears, upon the state of facts in this case, that two questions arise, founded rather upon objections taken than upon proof made: First, in relation to the entry comprising a portion of the unincorporated town of Manchester; and, second, as to sales of portions of the land by Triplett prior to and since the 26th May, 1830.

In regard to the first, it is clear that no village was ever established, formally or informally; and that whatever appearance of a village it might have attained, it was more the result of accident than any design to establish a town. On Triplett's claim, no town, or part of a town, was ever laid out prior to his entry; but he appears to have settled it early; built a house, and kept a tavern and grocery, and increased the number of his buildings from time to time, as the necessities of his business demanded; and assuming the fact, that, during that long residence upon land believed to be held by a valid Spanish title, it had assumed the appearance of an unincorporated village, from the cluster of buildings, (and portions of them had been even rented to persons brought there and employed by him,) it might be a violation of the letter of the law to permit him to aban-

don his ancient claim, and enter; yet it was certainly no violation of its spirit. The evident object of the law restraining the entry of towns and villages was to check inordinate speculation, and preserve the rights of third parties, who might be settlers upon the same; but neither of these objects would be violated in the present case, because, Triplett being an old settler, the sole and only recognised owner and improver, and it being an obscure spot, where those on it are only there under and through Triplett, and who are dependant for their rights upon his acquiring his own, neither they nor any of them can pre-empt, and consequently are the joint applicants for the perfection of this entry, because they did not settle in their own rights.

It is, secondly, assumed that Triplett sold portions of the land prior to his entry, which the act of 1838 provides against. Of this there is no proof; but assuming it as true that, holding a tract of land under what he and all deemed a good title, not dependant upon pre-emption laws, he should have contracted to part with a portion of it by bond, when his claim should be confirmed, to be perfected into title, it was a contract in view of a specific claim; and although one he would be compelled to execute, yet it does not violate the spirit of the restriction in the law: it would the letter. The restriction was obviously intended to break up the practice of men acquiring large choice pieces of land through pre-emption agents; sending them about to generate titles, while their deeds passing them out of them were in the pockets of their employers: nothing of that kind could exist in the present case. The early settlement, long residence, value and amount of improvement, and continued occupation by Triplett, all unite in repelling such an idea. In the case the law intended to provide against, both parties are benefited by the operation, as a speculation: in this case no such thing exists. Triplett did not enter for another, but for himself; and by depriving Triplett of the benefit of his entry, the condition of those upon his improved land is not benefited, but, on the contrary, all are injured. They cannot enter; and the only interest in destroying this title is in the government, which might profit by publicly selling it, to the amount of the value of the improvements of a private citizen. It is, in its condition, strictly a question whether the government, having received pay for the land at its established price, improved under its pre-emption policy, might not increase the speculation upon the citizen by bringing his improvements into market, upon a mere technical objection to the entry. The question is narrowed down to this: no one else can enter it. And the sole remedy for the government is, to quiet the title by confirming the entry, and securing the rights of the occupants, or setting up at public auction the labor of an individual. This the government does not wish or desire, and is always satisfied upon receiving the price of her lands in their wild state, so that, in obtaining it, it does not infringe upon the rights of others.

Your committee, upon a full view of this case, are of opinion that the entry of Triplett, although informal in some things, and not in exact conformity to the letter of the law, yet that it violated not the spirit of the law; that it was cancelled without sufficient consideration and proof, and that justice and equity require that the said entry should be confirmed, and he secured in his right by a patent; and in conformity to this opinion, report a bill in his favor.

[Pre-emption act of 1838.]

No. 11171. RECEIVER'S OFFICE AT ST. LOUIS, MISSOURI,
January 22, 1839.

Received from William Triplett, of St. Louis county, Mo., the sum of two hundred dollars and — cents, being in full payment for the southeast quarter of section number thirty-six, in township number forty-five of range number four east, containing one hundred and sixty acres, at \$1 25 per acre.

\$200 00

SAM. MERRY, *Receiver*.

[Pre-emption act of June 22, 1838]

No. 11171. LAND OFFICE AT ST. LOUIS, MISSOURI,
January 22, 1839.

It is hereby certified, that in pursuance of law, William Triplett, of St. Louis county, State of Missouri, on this day purchased of the register of this office the lot or southeast quarter of section number thirty-six, in township number forty-five of range number four east, containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per acre, amounting to two hundred dollars and — cents, for which the said William Triplett has made payment in full, as required by law.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said William Triplett shall be entitled to receive a patent for the lot above described.

JULIUS DE MUN, *Register*.

Testimony accompanying the foregoing receipt and certificate.

I, William Triplett, being desirous of locating the southeast quarter of section number thirty-six, township number forty-five north, range number four east, situated in the district of land subject to sale at St. Louis, Missouri, under the pre-emption act of 22d June, 1838, do hereby solemnly swear that in the year 1821, or 1822, I settled upon the above-mentioned tract of land and commenced improving the same, and I have resided thereon and made my home there, together with my wife and children, from the time of the mentioned settlement down to the present day; especially, however, from the 22d February, 1838, to the 22d June following, during which term my improvements consisted of a hewed log double house, kitchen, 6 stables, corn-cribs, blacksmith shop, a garden, meadow, orchard, and field of about forty acres, cultivated in corn, wheat, oats, &c.; and further, that I entered upon the land which I claim in my own right, and exclusively for my own use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any persons whatever, by which the title which I might acquire from the government of the United States should inure to the use or benefit of any one except myself, or to convey or transfer the said land, or the title which I may acquire to the same, to any other person or persons whatever, at any subsequent time.

WILLIAM TRIPLETT.

I, Joseph Neill, do hereby solemnly swear, that I am in no manner interested in the foregoing claim of William Triplett to southeast quarter of section number thirty-six, township number forty-five north, range number four east, under pre-emption act of 22d June, 1838, and that I am well acquainted with the facts of his having lived and having made his home on said tract, together with his wife and children, since many years, and from the 22d February, 1838, until the 22d June following and up to the present day, and of his having cultivated the same at the dates mentioned, and his having considerable improvements thereon, such as a dwelling, outhouses, garden, orchard, meadow, and field.

JOSEPH NEILL.

STATE OF MISSOURI, }
County of St. Louis. } ss.

Be it remembered that on the day and date hereof, before the undersigned, a notary public within and for the county and State aforesaid, personally appeared William Triplett and Joseph Neill, whose names are subscribed to the foregoing affidavits, and made oath in due form of law that the facts as set forth in the affidavits to which their names are severally subscribed are just and true.

In testimony whereof, I have hereunto set my hand and affixed my [L. S.] notarial seal, this twenty-second day of January, in the year of our Lord eighteen hundred and thirty-nine.

ALT. R. EASTON, *Notary Public.*

I do hereby certify that Joseph Neill, whose name is subscribed to the foregoing affidavit, is personally known to me, and am of opinion that full faith and credit should be given to his statements.

ALT. R. EASTON, *Notary Public.*

LAND OFFICE AT ST. LOUIS, MISSOURI,
January 22, 1839.

The foregoing application of William Triplett for the entry of southeast quarter of section number thirty-six, township number forty-five north, range number four east, under pre-emption act of 22d June, 1838, is hereby admitted, the proof adduced in favor of said application having been found perfectly satisfactory.

JULIUS DE MUN, *Register.*

SAM. MERRY, *Receiver.*

The foregoing proof bears the following endorsement, made at the General Land Office: "G. L. O.—This land formerly covered by claim of John Caldwell, but owing to circumstances detailed in Solicitor's report, No. 216, dated December 31, 1838, the land reverted to the United States on 26th May, 1830, and became liable to act subsequent in date to that

period. Subsequent to this entry, the fact of this land embracing the town of *Manchester* came to the knowledge of the register and receiver; and in letter of the former, dated 26th December, 1839, that fact, and the additional one of the present claimant having, prior and subsequent to 26th May, 1830, made sales, &c., of parts of this land, giving his bond conditioned for the perfection of such titles, &c., was made known to this office. See letter of Commissioner, 14th January, 1840, in reply, cancelling this entry and ordering the refunding of the money."

ENLISTMENTS IN THE ARMY, &c.

[To accompany bill H. R. No. 662.]

FEBRUARY 16, 1847.

Mr. NIVEN, from the Committee on Military Affairs, made the following

REPORT:

The Committee on Military Affairs, to whom was referred a communication from the Department of War in reference to discharges under civil process in cases of enlistment, report :

It appears, from the correspondence between the officers of the army in command at New York and the Adjutant General, that cases are of very frequent occurrence where recruits, through the intervention of their friends, or others, have applied to judicial officers, who are authorized to allow writs of *habeas corpus*, and, having been brought before such officers, have been summarily discharged from the service of the United States.

The consequences resulting from this practice, now becoming very common, are decidedly injurious to the service and to the interests of the government, because each recruit, under existing laws, receives a pecuniary bounty, in addition to suitable clothing; and as his discharge is absolute, instantaneous, and unconditional, the United States are wholly unindemnified. Like the offence of mutiny or desertion, this practice is contagious, and needs to be suppressed without delay.

The causes usually assigned for discharging recruits are infancy, mental imbecility, or some kindred reason, which the friends of the recruit are brought forward to establish, and which the military officers in command cannot be prepared to controvert.

The facility with which these discharges are obtained has induced unprincipled men, as is believed, to make it a systematic business—a deliberate scheme of fraud; and these frauds will probably continue to be perpetrated until some penal enactment shall be interposed.

Your committee ask leave to bring in a bill.

Mitchie & Heiss, print.

ENLISTMENTS IN THE ARMY, &c.

[To accompany bill H. R. No. 662]

FEBRUARY 16, 1817.

Mr. Niles, from the Committee on Military Affairs, made the following

REPORT:

The Committee on Military Affairs, to whom was referred a communication from the Department of War in reference to discharges under civil process in cases of enlistment, report:

It appears, from the correspondence between the officers of the army in command at New York and the Adjutant General, that cases are of very frequent occurrence where recruits, through the intervention of their friends, or others, have applied to judicial officers, who are authorized to allow writs of habeas corpus, and having been brought before such officers, have been summarily discharged from the service of the United States.

The consequences resulting from this practice, now becoming very common, are decidedly injurious to the service and to the interests of the government, because each recruit, under existing laws, receives a bounty money, in addition to suitable clothing; and as his discharge is absolute, instantaneous, and unconditional, the United States are wholly uncompensated. Like the offence of mutiny or desertion, this practice is

contagious, and needs to be suppressed without delay. The cases usually assigned for discharging recruits are infancy, mental incapacity, or some kindred reason, which the friends of the recruit are brought forward to establish, and which the military officers in command cannot be prepared to controvert.

The facility with which these discharges are obtained has induced unprincipled men, as is believed, to make it a systematic business—a deliberate scheme of fraud; and these frauds will probably continue to be perpetrated until some penal enactment shall be interposed. Your committee ask leave to bring in a bill.

Submitted a true bill.

TITIAN R. PEALE.

[To accompany bill H. R. No. 663.]

FEBRUARY 16, 1847.

Mr. W. B. MACLAY, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the memorial of Titian R. Peale, report:

That the memorialist was appointed by the Navy Department, on the 28th December, 1836, a member of the scientific corps to be attached to the South Sea surveying and exploring expedition, organized under the act of Congress of the 18th January, 1836. He performed constant and valuable service during the expedition, and was on board the United States ship Peacock when she proceeded to the northwest coast of America. On the 18th July, 1841, that vessel was entirely lost in endeavoring to enter the mouth of Columbia river, the officers and crew having scarcely time to escape with their lives, and being unable to save any thing from the wreck. The memorialist upon this occasion lost all his personal effects—his books and instruments, and a large number of articles which he had collected in his department, and which it would be difficult to replace. But, notwithstanding this calamity, the memorialist was enabled, by the exertions of the commanding officer and his own strenuous efforts, to replace, at extravagant prices, and as far as practicable from his own funds, such articles as were indispensably necessary for the completion of the contemplated surveys of the country, and was thus enabled to continue his usefulness to the expedition, and, with others of the scientific corps, traversed over a large portion of Oregon and Upper California, thereby adding much to the information of these countries which we now possess.

The memorialist returned to the United States on board the United States ship Vincennes in the summer of 1842, and was shortly after his arrival detached from that vessel by the honorable Secretary of the Navy, until "some suitable provision would be made (by Congress) for securing the results of the expedition, under the superintendence of those who have been charged with its various departments of duty." He was paid up to the time when the crew was discharged and the officers received their leave of absence. Although so detached, the memorialist conceived himself as too intimately connected with the large and valuable collections that had been made, at great hazard, labor, and expense, to be separated from them until the duties with which government had charged him were fully accomplished, and which it was not possible to effect until the sci-

entific corps had returned home, and the various collections could be properly arranged and classified, and descriptions laid before the public, whose attention had been directed to the results of the expedition for a long time. Until all this was accomplished the memorialist was bound to avoid all other engagements, and to devote himself solely to the purpose for which he received his appointment.

No provision being made by Congress in the summer of 1842 to secure the collections of the expedition, the memorialist found himself deprived of the salary upon which he had depended for a support until it could meet again. Early in the next session, some temporary provision being made, he was directed by the Secretary of the Navy to resume his duties as naturalist at the seat of government, but at a salary greatly reduced below that guarantied to him in his original appointment. He has since then continued in the performance of the duties assigned him, and attended to them with great fidelity.

The committee having fully considered this case, are unanimous in their opinion that the memorialist is justly entitled to indemnification for the losses suffered by the wreck of the United States ship Peacock. The committee are also of opinion that the services of the memorialist could not be dispensed with on the return of the expedition to the United States, until the collections made by himself and others of the scientific corps, by the direction of the government, were placed in a state of security and preservation, arranged and classified, preparatory to being described in the volumes to be appended to the history of the exploring expedition published by the order of government. They therefore report a bill to afford full relief to the memorialist, and recommend its passage.

The memorialist was entirely lost in endeavoring to enter the mouth of Columbia river, the officers and crew having scarcely time to escape with their lives, and being unable to save any thing from the wreck. The memorialist upon this occasion lost all his personal effects—his books and instruments, and a large number of articles which he had collected in his department, and which it would be difficult to replace. But, notwithstanding this calamity, the memorialist was enabled, by the exertions of the commanding officer and his own strenuous efforts, to re-place, at extravagant prices, and as far as practicable from his own funds, such articles as were indispensably necessary for the completion of the contemplated surveys of the country, and was thus enabled to continue his usefulness to the expedition, and, with others of the scientific corps, traversed over a large portion of Oregon and Upper California, thereby adding much to the information of these countries which we now possess. The memorialist returned to the United States on board the United States ship Vincennes in the summer of 1842, and was shortly after his arrival detached from that vessel by the honorable Secretary of the Navy, until "some suitable provision would be made (by Congress) for securing the results of the expedition, under the superintendence of those who have been charged with its various departments of duty." He was paid up to the time when the crew was discharged and the officers received their leave of absence. Although so detached, the memorialist conceived himself as too intimately connected with the large and valuable collections that had been made, at great hazard, labor, and expense, to be separated from them until the duties with which government had charged him were fully accomplished, and which it was not possible to effect until the sci-

THOMAS AP CATESBY JONES.

[To accompany bill H. R. No. 665.]

FEBRUARY 16, 1847.

Mr. BAYLY, from the Committee on Naval Affairs, made the following

REPORT :

The Committee on Naval Affairs, to whom was referred the petition of Thomas Ap Catesby Jones, praying to be restored to the list of navy pensioners, beg leave to report :

The memorialist, Thomas Ap Catesby Jones, was a lieutenant in command of a division of gun-boats, stationed on the eastern coast of Louisiana and in Mobile bay, during the whole of the late war with England; and on the 14th of December, 1814, his division of gun-boats, five in number, manned with 182 officers, seamen, and marines, was attacked by a numerous and well appointed flotilla, composed of barges and launches, mounting 42 pieces of cannon, manned with more than 1,200 chosen men, conducted by one of the most experienced and distinguished captains of the British navy. Against such an overwhelming force no skill or valor could prevail, and the young commander would have been justified in destroying his vessels, and with his men joining the forces on shore. But without a hope of victory, nay, with defeat, imprisonment, or death, most certain, Lieutenant Jones joined the combat, to support the character of his country and sustain the honor of her flag. It was a manly, generous resolution, in which he was gallantly seconded by his officers and men; "the result of the inquiry" of the court upon the loss of the command "being, after minute investigation, the unanimous opinion that Lieutenant Commandant Jones evinced by his movements, previous to the action, a judgment highly creditable to his character; that when an attack had become certain, he availed himself of every means to gain the best position for his squadron; and that during the subsequent engagement, when opposed to a force of at least nine times his number, he evinced a firmness and intrepidity worthy the emulation of his countrymen, and reflecting the highest honor on the service to which he belongs. It appears to the court that the number of the barges and launches to which the gun-vessels were opposed was between 45 and 50. About one-third this number attacked the flag-vessel, No. 156, and the court feels gratified in expressing the opinion that the brave crew of gun-vessel No. 156 forcibly felt the example of their officers; and that, under its influence, they maintained a most unequal conflict, with unparralleled destruction to the enemy, until they were born down by numbers, to which no opposition could be made." "With the clearest evidence for their guide, the court experience the most heartfelt gratification in declaring the opinion, that

Lieutenant Commandant Jones, and his gallant supporters, Lieutenants Spedden and McKeever, sailing masters Ulrich and Ferris, their officers and men, performed their duty on this occasion in the most able and gallant manner, and that the action has added another and a distinguished honor to the naval character of our country." "In approving the proceedings and opinion of the court of inquiry," Captain Patterson, then commanding New Orleans station, and who himself acted with the most distinguished gallantry in that ever to be remembered defence, also says: "I avail myself with pleasure of the favorable occasion thus afforded me to express my admiration of the gallantry and skill displayed by Lieutenant Jones and his brave companions in the defence made by them, against so overwhelming a force as not to afford a prospect of success, to which the enemy were astonished to find such a resistance offered. In this unequal contest I trust it will be found that the national and naval character has been nobly sustained; *that the resistance of the attack of so very superior a force has contributed in no small degree to the eventual safety of this city.*"*

The committee have given this detailed account of an achievement which belongs to history, because, having no *titles* of honor to confer on the living—no place in a Westminster Abbey to assign the dead—the acknowledgment of a debt of gratitude to her brave defenders is due from the republic, and will ever prove an incentive to patriotism and virtuous ambition. But without further comment, or stopping to inquire how far the opposition of the gun boats had the effect to discourage the enemy and disarrange his plans, or to inspire with confidence the brave yeomanry who were gathering to their chieftain's banner, when the defenceless condition of the city is remembered, and the enemy's mode and manner of descent considered; the value of time—the importance of a few days—even hours—as well for speedy attack as for preparing defence, must be apparent. And the truth of Captain Patterson's remark will be fully sustained, as to the effect produced upon the enemy's movement by the gallant and desperate conflict of the gun-boats, in the fact that on the 23d of December his troops *first* landed at Bayou Bienvenue. Had he not been interrupted in his advance through the lakes, his army might have been before New Orleans on the 13th or 14th of December.

In this combat Lieutenant Jones received a gunshot wound by a ball, which passing through the joint of the left shoulder, and taking a downward course, lodged in the body between the blade and the ribs, where it still remains—at times causing painful inconvenience, with the irreparable loss of the injured joint. Although so severely wounded and partially disabled, Lieutenant Jones was not incapacitated for the performance of any of the duties appertaining to the various stations through which he has subsequently passed, or the high one which he now holds in the service, as the records of the Navy Department will amply attest; but he is, nevertheless, by his partial disability, subjected to the extraordinary expense of a servant constantly to attend him, at sea or on shore, in travelling or at home, to assist in the ordinary process of dressing and undressing, he not being able to put off or on a coat, &c., without assistance: consequently, whatever expense the disability of his wound has brought upon him

* For full proceedings of the court of inquiry in this case see Niles's Weekly Register, vol. viii, p. 345.

must be a corresponding *diminution of his pay for services rendered*; the practical effect of which is, that although in the discharge of equal duties, his net compensation from government is from fifteen to twenty-five dollars per month *less* than any other officer of corresponding rank in the navy or army.

The act of Congress, entitled "An act for the better government of the navy of the United States," approved April 23d, 1800, provides:

Section 8, article 208: "That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of disability, not exceeding one-half his monthly pay."

Section 9, article 209: "All money accruing, or which has already accrued, to the United States, from the sale of prizes, shall be and remain forever a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it shall be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit, by their bravery or long and faithful services, the gratitude of their country."

The petitioner's *title* to a pension, under these provisions, appears to have been recognised and admitted by the commissioners appointed for the management of the navy pension fund as early as the year 1828; and again in 1831 by another board, consisting of the Hon. Levi Woodbury, Secretary of the Navy, the Hon. Lewis Cass, Secretary of War, and the Hon. Louis McLane, Secretary of the Treasury. These gentlemen were unanimous in their opinion as to Commodore Jones's *title* under the law, which opinion was subsequently affirmed by the then Attorney General, the present Chief Justice Taney. By an act of Congress, approved May 10th, 1834, the decision of the above named distinguished jurists and high officers was not only confirmed, but the Secretary of the Navy is therein directed to pay to Thomas Ap Catesby Jones *arrears of pension to which he is entitled on account of a permanent disability occasioned by a wound received by him in battle with the enemy, &c.*

Again: the Hon. James K. Paulding, while Secretary of the Navy, in the year 1837, not only recognised Commodore Jones's right to a pension, but, after consulting Mr. Attorney General Grundy, actually raised it to twenty-five dollars per month, being just half the monthly pay to which he was entitled by law at the time he received the wound which caused the disability.

Commodore Jones continued to receive this pension up to 16th of August, 1841, when, by a decision of the accounting officer of the treasury, made on the 20th of November, 1844, he was denied any further payment of pension, under a construction given to the acts of Congress of August 16th, 1841, and April 30th, 1844; the former entitled "An act to provide for the payment of navy pensions," and the latter entitled "An act making appropriations for the payment of revolutionary and other pensioners of the United States for the fiscal year ending on the 30th June, 1845." These laws are general in their terms, and certainly cover all cases, not even excepting the extraordinary one now under consideration, which in every respect is without a parallel in the service. The eighth

and ninth sections of the act of 1800, taken in connexion, evidently contemplated two distinct classes of beneficiaries, who, under different circumstances, were to be participants of a special fund set apart as a reward to the disabled and meritorious, whether officers, seamen, or marines. First, such as may be disabled in the line of their duty; and, secondly, "such as, though not disabled, may merit, by their bravery or long and faithful services, the gratitude of their country." By the eighth section, it will be seen that all pensions granted under it are contingent, whether as regards amount or duration, and must be regulated according to the *nature and degree, and during the continuance of disability*. Here, then, the law clearly looks to *temporary and partial* as well as permanent and total disability, as entitling the sufferer to a pension; but should he be so fortunate as entirely to recover of his wounds, and be no longer *disabled*, then his pension is to cease and remit in toto; but if the *disability* be permanent, and of a character involving inconvenience and extraordinary expense not otherwise provided for by law, a fair and equitable construction would be that in such case the sufferer would be entitled to a pension *for life*, the amount in every instance to depend upon *the degree of disability*; but, conceding the disabled officer's right to a pension, the propriety of his receiving pay and pension at one and the same time has been questioned, and no doubt was intended to be covered by the acts of August 16th, 1841, and of April 30th, 1844. But however right and proper such prohibition may be as a general principle, special cases may exist which would seem to justify and require exception, setting aside all reward for merit, long and faithful services, and looking only to the ability of the pensioner to render the "*quid pro quo*" in the way of actual services, as the criterion by which to judge of his claim to full pay for current services at the same time that he is receiving pension for past sufferings and partial disability.

Was the gallant Nelson less deserving full pay and emoluments because he had lost an eye and arm in his country's service, when he achieved his splendid victory of the Nile? Or was the result of his matchless exploit off Trafalgar of less consequence to the arms of Great Britain because the maimed hero who conducted her fleet into triumphant battle was covered with honorable wounds, for which he was in the receipt of *many pensions* from a grateful country—not denying him full pay and full pension at one and the same time? Was the daring Gordon, who conducted the enemy's squadron up the Potomac during the last war, less deserving full pay because he achieved that exploit on a wooden leg, and was at the same time the recipient of pensions for meritorious services, as well as for partial disability occasioned by wounds? The gallant sailor who hobbles about the streets upon his wooden stump can do as good service in the boatswain's, gunner's, or sailmaker's department on shore, as though he were not *technically disabled*; and the usage of the service has been to employ such persons in our navy yards on daily wages, although they are receiving pensions; never supposing that the *actual service* rendered by the partially disabled sailor is *less valuable* to the country because he has lost a leg, or perhaps an eye, in fighting her battles. Revolting as the idea must be to every honorable mind that will look thoroughly into the subject, such, nevertheless, will be the practical operation of any law which indiscriminately denies pay and pension at one and the same time to all persons. And the plighted faith, the promised reward for bravery and meritorious conduct, become to the of-

ficers of the navy a dead letter, or words without meaning ; for a partially disabled officer, as is the case under consideration, although fully able to perform all the duties of his station, will not be considered deserving a nation's gratitude, but will be expected to perform *full service, on reduced pay.*

With these views, and considering all the circumstances of the peculiar case of Commodore Jones, his long and faithful services, his distinguished bravery and gallant conduct in the battle wherein he was wounded, his continued disability, which, for more than thirty years, has been endured, and the consequent additional expense to which he has been subjected, the committee are of opinion that he is fairly and justly entitled to a participation of the navy pension fund, and therefore recommend the accompanying bill for his relief.

Papers referred to in this report.

- A. Copy of pension certificate.
- B. Fourth Auditor's (A. O. Dayton) certificate.
- C. Dr. Thos. Harris's certificate of continued disability, occasioned by the wound.

A.

Thomas Ap C. Jones, while acting as lieutenant commandant, commanding the United States gun-boats in the action on lake Borgne on the 14th December, 1814, received a severe gun-shot wound in the fore part of the left shoulder, and having been disabled in the service of the United States whilst acting in the line of his duty, is entitled to receive at the Branch Bank of the United States, at Washington, D. C., twenty dollars per month, payable half-yearly, on the first day of July and first day of January in every year during his life, or the continuance of such disability ; to commence the fifteenth day of November, one thousand eight hundred and thirty-one. The same will be paid to the said Thomas Ap C. Jones in person, or on his legal power of attorney ; but no payment will be made, either personally or on a power of attorney, unless the said Thomas Ap C. Jones shall produce, or send to the president of the said bank, the certificate of a justice of the peace of the county or place wherein he resides, that he, the said Thomas Ap C. Jones, appeared before the said justice in the month next preceding that in which the payment is to be made, and also the certificate of a reputable surgeon that his disability still continued.

Given under my hand and the seal of the Navy Department, this fifteenth day of December, one thousand eight hundred and thirty-one.

LEVI WOODBURY.

Registered :

WILL. HARDEMAN,
for Secretary to the Board of Commissioners
of the Navy Pension Fund.

NAVY DEPARTMENT, *July 15, 1839.*

This pension is increased to *twenty five* dollars a month from 1st January, 1839. Allowed agreeably to the opinion of the Attorney General, dated 10th November, 1837.

J. K. PAULDING.

B.

TREASURY DEPARTMENT,
Fourth Auditor's Office, November 20, 1844.

SIR: I have considered the claim which you presented at this office a few days since to payment as a navy pensioner from the 1st of July, 1841, to the 30th of June, 1844, and have to inform you that, as during the whole of that period you were on duty and receiving the highest pay of your grade, the payment of your pension is prohibited by the acts of Congress of August 16th, 1841, and April 30th, 1844; the former entitled "An act to provide for the payment of navy pensions," and the latter entitled "An act making appropriations for the payment of revolutionary and other pensioners of the United States for the fiscal year ending on the 30th June, 1845."

I am, sir, very respectfully, your obedient servant,

A. O. DAYTON.

Commodore THOMAS AP CATESBY JONES,
United States Navy, Prospect Hill, Fairfax county, Va.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 5, 1845.

I certify the foregoing to be a true copy from the records of this office.

A. O. DAYTON.

C.

NAVY DEPARTMENT,
Bureau of Medicine and Surgery, December 5, 1845.

I hereby certify that I have examined Captain Thomas Ap C. Jones, of the navy of the United States, and find, upon examination, that he labors under an inability to move his left shoulder joint, arising from a gun-shot wound which it is said he received in the front part of the left shoulder. The wound and ulcer are healed, but the joint is rendered stiff, and in a great degree useless.

Having been disabled in the service of the United States, while acting in the line of his duty, I am of opinion that he is fully entitled to his former pension.

THO. HARRIS.

HOWARD QUINN

(The petitioner is a sailor and

February 14, 1837.

Mr. Secretary, from the Committee on Naval Affairs, made the following

REPORT

The Committee on Naval Affairs, to whom was referred the petition of
Edward Quinn for a pension, in and to the Senate of the United States,

That the petitioner represents that he was on board the private armed
Swiss, Commodore Hall, during her service in the Pacific in the years
1824, '25, '26, and part of '27, and served as an ordinary seaman. That
during the latter part of the said service, while engaged in the discharge
of his duty, hauling up the main-boom in port the ship's alarm, the boom
was broken near the upper end, and the main-boom of the ship was
disrupted. In consequence of which he was rendered lame for life, and
was unable to perform his duty as an ordinary seaman. That he has been
unable to perform his duty as an ordinary seaman, and is now a disabled
man. That he is now a disabled man, and is unable to perform his duty
as an ordinary seaman. That he is now a disabled man, and is unable to
perform his duty as an ordinary seaman. That he is now a disabled man,
and is unable to perform his duty as an ordinary seaman. That he is now
a disabled man, and is unable to perform his duty as an ordinary seaman.

The committee, upon an examination of the papers submitted in this
case, find that the service and disability are sufficiently established to
entitle the petitioner to relief; and report a bill granting him a pension for
one-half disability, to commence the 1st January, 1836,
and to be paid semi-annually.

EDWARD GUINN.

[To accompany bill H. R. No. 666.]

FEBRUARY 16, 1817.

Mr. Schenck, from the Committee on Naval Affairs, made the following

REPORT:

The Committee on Naval Affairs, to whom was referred the petition of Edward Guinn for a pension, report:

That the petitioner represents that he was on board the frigate United States, Commodore Hull, during her cruise in the Pacific, in the years 1821, '22, '23, and part of '27, and served as an ordinary seaman. That during the latter part of the said cruise, while engaged in the discharge of his duty, heaving up the main-brace to put the ship about, his left arm was broken near the elbow joint, and the forefinger of the left hand was dislocated; in consequence of which, he can now use his arm but very little, "can hardly raise a five-pound weight with it, and that it is becoming weaker as he grows older." That he has been twenty-three years in the naval service of the United States, and is now over sixty years of age. That he is poor, and unable to support himself, and asks a pension for the disability.

The committee, upon an examination of the papers submitted in this case, find that the service and disability are sufficiently established to entitle the petitioner to relief; and report a bill granting him a pension for one half disability, to commence the 1st January, 1816.

Lucius & Halsey, printers.

ELISHA H. HOLMES.

[To accompany bill H. R. No. 667.]

FEBRUARY 16, 1847.

Mr. MARSH, from the Committee on Patents, made the following

REPORT :

The Committee on Patents, to whom was referred the petition of Elisha H. Holmes, report :

That they have had the subject under consideration, and adopt the report of the Committee on Patents of the House, made at the last session of Congress, and report a bill accordingly.

JANUARY 30, 1846.

The Committee on Patents, to whom was referred the petition of Elisha H. Holmes, report the following facts, together with a bill for the relief of the petitioner :

The petitioner is the inventor of a valuable machine for raising mud, sand, and gravel from the beds of streams, rivers, and harbors, commonly called a "dredging machine," and secured his invention by patent, issued on the 18th of November, 1830, and expiring, of course, on the 18th of November, 1844.

At various times, while the patent was in force, the petitioner, in conjunction with other persons, contracted with the government for the removal of sand banks, and for making excavations ; and, as appears, in all instances fulfilled his contracts to the satisfaction of the officers in charge of the works.

In several instances the work performed by the petitioner was at the commencement of harbor improvements and other public works, which were expected to be prosecuted according to plans of the topographical engineers, requiring some years for their completion ; and the petitioner and his associates built several machines at great expense, in the hope of employing them in future contracts on the works commenced. The suspension of appropriations for the continuance of these improvements has disappointed this expectation ; and as the machines, from their cost and the nature of the purposes to which they are applicable, can seldom or never be used except in the execution of government contracts, they now remain upon the hands of the petitioner and his associates ; and have in

the mean time, from their necessarily perishable nature and exposure to injury, become so depreciated as to be of little or no value.

For the losses thus sustained the petitioner asks no pecuniary remuneration; and as it is satisfactorily shown, by the account annexed to the petition, that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, the committee think that he is entitled to the benefit of the act of 1836, providing for the extension of patents in such cases.

The petitioner made an unsuccessful application to the board provided by that act, for the extension of his patent; but the committee are not able to discover any satisfactory reason for the refusal of that board to allow his petition, and they therefore recommend the passage of the accompanying bill.

REPORT:

The Committee on Patents, to whom was referred the petition of Ellis, H. Holmes, report:

That they have had the subject under consideration, and adopt the report of the Committee on Patents of the House, made at the last session of Congress, and report a bill accordingly.

JANUARY 30, 1846.

The Committee on Patents, to whom was referred the petition of Ellis, H. Holmes, report the following facts, together with a bill for the relief of the petitioner:

The petitioner is the inventor of a valuable machine for raising sand, and gravel from the beds of streams, rivers, and harbors, commonly called a "dredging machine," and secured his invention by patent, issued on the 13th of November, 1839, and expiring, of course, on the 13th of November, 1844.

At various times, while the patent was in force, the petitioner, in conjunction with other persons, contracted with the government for the removal of sand banks, and for making excavations; and, as appears, in all instances fulfilled his contracts to the satisfaction of the officers in charge of the works.

In several instances the work performed by the petitioner was at the commencement of harbor improvements and other public works, which were expected to be prosecuted according to plans of the topographical engineers, requiring some years for their completion; and the petitioner and his associates built several machines at great expense, in the hope of employing them in future contracts on the works commenced. The success of appropriations for the continuance of these improvements has disappointed this expectation; and as the machines, from their cost and the nature of the purposes to which they are applicable, can seldom or never be used except in the execution of government contracts, they now remain upon the hands of the petitioner and his associates; and have in

SMITHSONIAN INSTITUTION.

FEBRUARY 16, 1847.

Mr. SEDDON, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom was referred the resolution of the House adopted on the 27th day of January last, by which they were required and instructed to take into consideration the 3d section of an act entitled "An act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men," approved on the 10th day of August, 1846, which provides for the appointment of regents and other officers of the said institution, and to report whether in their opinion the offices created by the said 3d section are civil offices in the meaning of the constitution of the United States, report that, having given deliberate consideration to the provisions of the said act, and especially to the 3d section thereof, they are of opinion that the offices referred to in said resolution are not civil offices of the United States in the meaning of the constitution, but are merely offices or trusts of a corporation.

Ritchie & Heiss, print.

SMITHSONIAN INSTITUTION.

FEBRUARY 16, 1847.

Mr. Garmon, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom was referred the resolution of the House adopted on the 27th day of January last, by which they were required and instructed to take into consideration the 3d section of an act entitled "An act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men," approved on the 10th day of August, 1846, which provides for the appointment of regents and other officers of the said institution, and to report whether in their opinion the offices created by the said 3d section are civil offices in the meaning of the constitution of the United States, report that, having given deliber-ate consideration to the provisions of the said act, and especially to the 3d section thereof, they are of opinion that the offices referred to in said resolution are not civil offices of the United States in the meaning of the constitution, but are merely offices or trusts of a corporation.

Richie & Heiss, print.

J. MELVILLE GILLISS.

[To accompany joint resolution H. R. No. 56.]

FEBRUARY 16, 1847.

Mr. SCHENCK, from the Committee on Naval Affairs, made the following

REPORT :

The Committee on Naval Affairs, to whom was referred the memorial of J. Melville Gilliss, of the United States navy, report :

That having examined the papers and proofs of the petitioner, they find the facts in his case clearly established, as they are succinctly stated in a report made by a committee of the Senate to the last Congress :

“ That upon the organization of the exploring expedition in 1838, under Lieutenant Wilkes, he suggested to the Navy Department that a series of astronomical and other observations should be made at Boston and Washington during the absence of that expedition, and in connexion with it.

“ On the 13th of August, 1838, Lieutenant Gilliss was charged with the performance of this duty at the depot of charts in Washington, and continued to be so charged till the return of the expedition in 1842. During this period, Lieutenant Gilliss himself took about ten thousand astronomical observations. The magnetic and meteorological observations were about twenty-five thousand each, and were made by him and his assistants.

“ Lieutenant Gilliss was compelled to rent a house in the neighborhood of the depot, in order to be always near the scene of his labors. These labors averaged 12 hours a day during the whole time, and he was frequently on his feet 20 hours in 24. There was one week in every month, during the four years that he was thus employed, when his duties required him to be up all night.

“ Mr. Paulding, the former Secretary of the Navy, states that the additional duties imposed upon Lieutenant Gilliss ‘ a great accession of labor, and required scientific attainments of no ordinary degree ;’ and accordingly he has no hesitation in saying that Lieutenant Gilliss would be fully entitled to additional compensation, if the law permitted.

“ The act of the last session gave additional compensation to the officers attached to the exploring expedition, who were engaged in the performance of scientific duties, but not to officers employed on such duties in connexion with that expedition. The committee, concurring in opinion with the late Secretary Paulding, recommend that a similar allowance be made to Lieutenant Gilliss. They report a resolution accordingly.”

Copies of the memorial and proofs are presented, also, to accompany this report.

Ritchie & Heiss, printers.

To the Senate and House of Representatives of the United States in Congress assembled :

The memorial of J. M. Gilliss, a lieutenant in the navy of the United States, respectfully sheweth:

That upon the organization of the exploring expedition by Lieutenant (now commander) Wilkes, in 1838, he suggested to the honorable Secretary of the Navy the importance of making a series of astronomical and other scientific observations at Boston and Washington during its absence, and in connexion with it. Your memorialist was at that time an applicant for service in the expedition, and anxious to accompany it; but having been an assistant to Lieutenant Wilkes, and acquainted with his mode of observing, it was believed that he could render greater service by making these observations at Washington than by accompanying the expedition. Being desirous to promote its objects; upon an assurance that his instructions would connect him with the expedition, your memorialist waived his objections.

Accordingly, in compliance with the written application of Lieutenant Wilkes, the honorable Secretary of the Navy addressed the following order to your memorialist.

“NAVY DEPARTMENT,
“August 13, 1838.

“SIR: Mr. Bond, of Boston, has been employed to make a series of observations during the absence of the exploring expedition, and in connection with it. It is deemed proper that similar observations be made at the depot of charts and instruments. You are therefore charged with the performance of this duty; and in conducting the same, you will be governed by the enclosed, which is a copy of the instructions sent to Mr. Bond.

“I am, respectfully, &c.,

J. K. PAULDING.

“Lieut. JAS. M. GILLISS,

“Depot of Charts, &c.”

The anxiety of Lieutenant Wilkes to have the order issued, and his belief that it would attach your memorialist to the expedition, are fully evinced in the following extract from a letter to the honorable Secretary of the Navy, written amid the multifarious engagements crowding on him in the last hours of its stay in the waters of the United States:

“U. S. SHIP VINCENNES,
“Hampton Roads, August 12, 1838.

“SIR:

“Mr. Gilliss has been some time with me, and made himself acquainted with the necessary observations and the manner of conducting them, and I hope and trust that he will not be sent away or suffered to leave the depot during the absence of the expedition; for, on the manner of conducting these observations every thing depends, as you must be well aware of; and, in my opinion, it is equally necessary that the same person, if possible, should perform the duty. Mr. Gilliss has taken much interest in this kind of observation and the operations of the expedition,

and which I could not well expect from another, nor am I aware that any other person is sufficiently qualified to undertake them at present. Any encouragement you can afford to give Lieutenant Gilliss will have a very good effect, as his duties, if they are faithfully carried out, will be no sinecure, and will merit, in my opinion, his being put upon the same footing as officers engaged in the expedition.

"I am, very respectfully,

CHARLES WILKES.

"Hon. J. K. PAULDING,

"*Secretary of the Navy.*"

These papers exhibit the importance Lieutenant Wilkes attached to the duties, and the position your memorialist claims to occupy in relation to the expedition. He furthermore conceives that they establish his attachment to it within the intention of the act of 1843, chapter 100, by which your honorable bodies granted extra compensation to those "officers attached to the late surveying and exploring expedition, who were in the performance of the scientific duties;" but the department has been pleased to decide that he cannot be so regarded, the orders and instructions only connecting him with it.

For the fulfilment of his instructions, Mr. Bond was paid \$1,500 per annum. If he was attached to the expedition, or entitled to compensation for services rendered under the instructions referred to in connection with it, it is evident that your memorialist was, and the department, by payment to the former, concedes to the position of the latter all that he demands. That it was intended to recompense your memorialist as the other officers of the expedition, the concluding sentence of Lieutenant Wilkes's letter satisfactorily testifies.

The observations in question were to be made at the depot of charts, &c., at that time subordinate to the board of Navy Commissioners, and by which it was entirely controlled. Its duties were performed by a lieutenant, and one passed midshipman as his assistant, between the hours of 9 a. m. and 3 p. m. Those imposed by the order of the Secretary required the services of four additional assistants, and the whole twenty-four hours (Sundays not excepted) instead of six hours daily. Letters relating to their execution, and analogous subjects growing out from them, emanated from and were sent directly to the Secretary without the intervention of the board; but the ordinary duties of the depot remained, as before, under its direction.

The number of astronomical observations made is about 7,500; of magnetical observations, 25,000; and of meteorological observations, the same number. *The whole of the astronomical observations were made by your memorialist.* These occurring at all hours of the night, he was compelled to reside near the observatory; and there was one week in each month, during the four years of their continuance, when he could not take off his clothes at night. The duty kept him employed on an average twelve hours each day, and on many occasions he was on his feet twenty hours out of twenty four. exposed to the out door temperature for several hours at a time. Notwithstanding the excessive exposure and labor encountered, he never lost an observation during the whole four years, except during an illness of two days in 1841.

Of the importance of these observations to the expedition, Lieuten-

ant Wilkes has spoken ; of the merit of their execution, it does not become your memorialist to express an opinion. They have been published by order of the Senate, and he submits them to your judgment ; but of the copy called for by Lieutenant Wilkes, he says : " It affords me great pleasure to state that, so far as I have examined the observations made by you and the assistants at the depot, they appear satisfactory and do you great credit."

If your honorable bodies doubt that your memorialist was attached to the expedition within the meaning of the act of 3d March, 1843, (which, in view of all the circumstances, he cannot permit himself to think,) he prays that, in consideration of the importance of the observations, the great labor necessary to their accomplishment, and the fact that they were not within the line of his duty, you will pass a bill for his relief, authorizing the accounting officers of the treasury to allow him, in the settlement of his account, such extra pay as was granted by that act to officers attached to the exploring expedition who were in the performance of scientific duties.

As proofs of the fidelity with which his duties were performed, both in reference to the expedition and those required of him by the Commissioners of the Navy ; of the fact that the commissioners regarded the scientific duties as distinct from the ordinary avocations of the depot ; of the justice of his claim to additional compensation for extra labor, and of the merits of those labors themselves, your memorialist most respectfully submits the accompanying testimonials.

[Extract.]

NEW YORK, *April 6, 1843.*

SIR: You were undoubtedly charged with conducting a series of observations in connexion with a similar series made by the officers of the exploring expedition ; and you performed that duty to the entire satisfaction of the department.

As, however, the additional duty imposed on you involved a great accession of labor, and required scientific attainments of no ordinary degree, I have no hesitation in saying that you would be fully entitled to additional compensation, if there were no law to the contrary.

I am, very respectfully, your friend and servant,

J. K. PAULDING.

Lieut. J. M. GILLISS,

United States Navy, &c.

I certify that the above is a true extract.

JOHN S. MEEHAN.

NAVY COMMISSIONER'S OFFICE, *July 13, 1842.*

SIR: The Commissioners of the Navy have received your letter of the 12th instant, informing the board of your having transferred the charge of the depot of charts and instruments to Lieut. M. F. Maury, whose receipt for the public property thus transferred is also received.

The board take this occasion to express their regret that you should

have deemed it necessary, in the prosecution of the astronomical observations in which you are engaged, to retire from a situation which you have filled to the satisfaction of the present and late board; and they with great pleasure express their approbation not only of the manner in which you have discharged the duty intrusted to you, but also add their testimony to the capacity with which that duty has been discharged.

Respectfully, your obedient servant,

L. WARRINGTON,

For the board of Navy Commissioners.

Lieut. JAS. M. GILLISS,

United States Navy.

I certify that the foregoing letter from the board of Navy Commissioners is a true copy.

JOHN S. MEEHAN.

[Extract.]

NEW YORK UNIVERSITY, September 7, 1846.

DEAR SIR: I received, some time since, your volume of meteorological (and magnetical) observations, and have just received the astronomical. I cannot refrain from expressing my gratification and astonishment at the number and excellence of your observations. They have far exceeded my expectations; and I am exceedingly glad, not to say surprised, that you have got them printed in full, and so well done. Your observations of the stars accord with each other remarkably well. In looking over the Greenwich observations for 1837, I find the greatest mean A. R. of Polaris, deduced from observation, $1^h. 1^m. 27.45s.$; least, $18''.58$; range of values, $8''.27$; for δ U. M. (Ursæ Minoris) greatest, $55''.65$; least, $52''.70$; range, $2''.95$; A. S. C. (Astronomical Society's Catalogue) 91; greatest, $44''.07$; least, $42''.43$; range, $1''.64$; λ Ur. Min. greatest, $9''.64$; least, $4''.03$; range, $5''.61$; 76 Draconis, greatest, $57''.40$; least, $56''.15$; range, $1''.25$, &c.—*five stars*, in which the range of the observations exceeds $1s.$; and there are a dozen others in which the range exceeds $0''.5$.

In your observations for 1842, I find the range of Polaris to be $2''.56$; 51 Cephei, $2''.27$; ϵ Urs. Min. $1''.37$; ζ Urs. Min. $4''.71$; δ Urs. Min. $2''.70$; λ Urs. Min. $1''.22$ —making in all six observations, of which the range exceeds $1s.$; a very satisfactory result, considering the instrument you had to work with.

I think your instrument must have been very much abused before it fell into your hands. The error of collimation appears to have been constantly fluctuating, and that of azimuth also. It is very trying to an astronomer's patience to have to contend with difficulties which should be obviated by the mechanic. I am glad that out of your four years' observations with that old instrument has grown so fine an observatory.

Yours, sincerely,

ELIAS LOOMIS.

Lieut. J. M. GILLISS.

I certify the above to be a true extract.

JOHN S. MEEHAN.

[PRIVATE.]

WASHINGTON, *July* 17, 1846.

Mr. Walker begs to recall the attention of the honorable Secretary of the Navy to Professor Bache's informal request that Lieut. Gilliss be ordered to report to the superintendent of the United States coast survey for duty. Lieutenant G. has just closed an important service to the government, in making and preparing for publication the most extensive series of observations extant in the United States. The work contains a useful catalogue of stars, based on Lieut. Gilliss's own observations.

Should the application of the Secretary of the Treasury, when made, be successful, Professor B. proposes to order Lieutenant Gilliss to perform a similar service for an extensive series of moon culminations made by Mr. Wm. C. Bond, at Dorchester and Cambridge.

The series are of great importance to the coast survey in determining longitude, by comparison with corresponding moon culminations in the United States and Europe.

It is understood that Lieut. Gilliss is an applicant for sea service. Mr. Walker begs to suggest that he knows of no officer in the navy more competent than Lieutenant G. to the service wanted by Professor Bache, and has no doubt that Mr. G. would find it as acceptable to himself as useful and important to the government.

Mr. W. begs to remark that such talents as Mr. G. has manifested in his late works are too valuable to the government, on land, to be spared for sea service, unless the public exigencies really require the latter.

Respectfully, &c.,

S. C. WALKER.

Hon. GEO. BANCROFT.

[The above is endorsed by Mr. Walker, "Written at request of Professor Bache."]

I certify that the above is a true copy.

JOHN S. MEEHAN.

Washington, July 17, 1846.

Mr. Walker begs to recall the mention of the honorable Secretary of the Navy in Professor Bache's informal request that Lieut. Gillies be assigned to the superintendence of the United States coast survey for 1847. Lieutenant Gillies has just closed an important service to the government by preparing and preparing for publication the most extensive and complete catalogue of stars known to the United States. The work contains a complete catalogue of stars, based on Lieut. Gillies's own observations.

Should the application of the Secretary of the Treasury, when made, be successful, Mr. B. proposes to order Lieutenant Gillies to perform a similar service for an extensive series of moon culminations made by Mr. W. A. Bache, at Dorchester and Cambridge.

The catalogue of great importance in the coast survey in determining longitude by comparison with corresponding moon culminations in the United States and Europe.

Mr. Walker begs to suggest that he knows of no officer in the navy more qualified than Lieutenant Gillies to the service wanted by Professor Bache, and he is sure that Mr. G. would find it as acceptable to himself as useful and important to the government.

Mr. W. begs to remark that such talents as Mr. G. has manifested in his late works are too valuable to the government, on land, to be spared for sea service, unless the public exigencies really require the latter.

Respectfully, &c.,

S. C. WALKER.

Hon. Gen. BAXTER.

[The above is dictated by Mr. Walker, "Written at request of Professor Bache."]

I certify that the above is a true copy.

JOHN S. MEEHAN.

DEAF AND DUMB.

[To accompany bill H. R. No. 670.]

FEBRUARY 17, 1847.

Mr. TIBBATS, from the Select Committee, made the following

REPORT:

The Select Committee, to whom was referred the memorial of the Directors of the New York Institution for the Instruction of the Deaf and Dumb, submit the following report:

The memorialists ask, for the New York Institution for the Instruction of the Deaf and Dumb, an endowment of land by act of Congress.

This application is a renewal of one which was presented as early as 1824, and which met with favorable consideration; a bill making the desired grant having actually passed the House of Representatives, but failing by not being reached in the Senate, from the press of business at the close of the session. Brought forward again at a subsequent session, it again failed in precisely the same manner.

Notwithstanding the favorable feeling thus manifested towards the application, the expense of sending a delegation to the seat of government to urge its consideration, and the uncertainty of the result, appear to have deterred the directors from immediately renewing it. In the mean time, the institution has won the confidence of the legislature of its own State, whose patronage has been sufficient to give it a high degree of usefulness and prosperity. It has, for some years past, had a greater number of pupils than any similar institution in the world, that of London only excepted. To accommodate this large and still increasing number, considerable additions to the buildings have recently become necessary. As the institution has no permanent funds, these additions could only be made by incurring a debt; and it is in the hope of gaining relief from pecuniary embarrassments, which it is feared may affect its future usefulness, that the application is now renewed.

It may be safely affirmed that none of our acts meet with more general and cheerful acquiescence on the part of our constituents than those by which we make provision for the great interests of education, and those by which we exercise the right of bestowing portions of the vast national domain in gifts worthy of national beneficence. In numerous cases, grants of the public lands, not only when made to foster national interests, or to testify national gratitude, but, as in the case of the exiled Poles, when intended as a simple act of benevolence, have been unequivocally sanctioned by public sentiment.

Ritchie & Heiss, printers.

It is universally conceded to be one of the highest duties of a republican government to provide facilities for the education of every class of its citizens. Under our federal system the more immediate care of this interest is indeed appropriately left to the State governments; but though Congress is thus relieved from the labor and responsibility of adjusting the details of a system of common schools, or of determining how many and what kind of seminaries are wanted, it is not absolved from the duty of aiding from its more ample means such seminaries, in cases in which the limited resources of the States would prove inadequate.

It is certainly just and proper that the aid of the general government should be the most frequently and liberally extended to the younger and feebler members of the confederacy. The reservation of one square mile in every thirty-six for the support of primary schools, and of large tracts in each of the new States for higher seminaries, was a great and felicitous conception, worthy of men legislating for a new era in the world's history. Such generous provision for the higher wants of posterity is as rare as is the spectacle of a vast wilderness to-day, transformed into populous and civilized States to-morrow.

Still the claims of seminaries of learning and of institutions of benevolence in the older States to some degree of aid and favor from the general government, have been repeatedly admitted. We need only refer to the grants to two institutions for the deaf and dumb, (one of them situated in an eastern State peculiarly fortunate in the amount of its own education fund,) and to the numerous cases in which the duties on books and instruments imported for literary seminaries have been remitted. We may further add that, in the view of many, the strongest of the reasons urged for depositing the surplus revenue with the States was, that it would enable them to make more effectual provision for the education of their people.

Whether regarded in the light of an act of benevolence, or of a duty which a government instituted for the sole benefit of the people, and resting for support on popular intelligence and virtue, owes to the cause of national education, no worthier objects of national munificence can be found than the institutions for the instruction of the deaf and dumb.

The elevation of this once wretched and neglected class of our fellow-beings to the social and religious privileges of their kindred, and to the moral and intellectual dignity of men, is one of the proudest triumphs of science and of Christian philanthropy. With the sages of antiquity the impossibility of instructing the deaf and dumb had passed into a proverb.

The celebrated code of Justinian denied to them the power of making civil contracts; and even the kindly feeling and compassion which their misfortune ought at least to call forth, has been averted from them by popular superstition, which regarded them, in some countries, as *changelings*, the offspring of a semi-demoniac race of beings, palmed upon human foster parents;† in others, as living monuments of the Divine displeasure, whose

* Aristotle sanctioned this opinion; and the poet Lucretius expressed it in two lines, which have been thus translated:

"To instruct the deaf no art could ever reach;
No care improve them, and no wisdom teach."

† See Scott's novel, "Peveril of the Peak." Such prejudices appear to have been most common in Scotland.

existence was a disgrace to the families in which they were found. The mind cannot contemplate, without a shudder, the condition of a human being, gifted with capacities for knowledge and happiness which education might have unfolded, thus thrust out from human sympathy and companionship; cut off even from the consolations of religion, without enjoyment in life, and without hope in death.

Though this is no exaggerated picture of the lot of thousands, it is true that all uneducated mutes have not been equally wretched and degraded. Their misfortune (and it is strange that a discovery so simple should have been made so late) consists not so much in their own inability to learn the spoken language of those around them, as in the imperfection of their dialect of gestures, and in the respect of their friends to learn it and aid in improving it.

Hence there have been some who, blessed with kind and attentive companions, and favored by a rare mental organization, have acquired some glimmerings of knowledge, and some means of social enjoyment. When we reflect what minds so gifted might have become with the higher advantages which an institution affords, we seem to have some glimpse of the divine progress which opens to our race in that higher state of existence beyond this world.

Unfortunately the cases are far more numerous in which uneducated deaf mutes, learning evil by evil example, and deprived, through the imperfections of their dialect of signs, of the knowledge and the religious instruction that might counterbalance the evil, have become a burden to their connexions and to themselves.

There occurs to us a fearful, fortunately a rare instance of the extreme wretchedness which uneducated mutes sometimes inflict on their families and themselves. A farmer in Maine, of the name of Mayo, had a deaf and dumb son, a young man of strong and quick passions. These, it will readily be conceived, would gain strength from his ignorance of the motives those around him, and from the superior advantages enjoyed by his brothers; leading to tormenting suspicions, and a keen sense. Upon some provocation, the nature of which is not recollected, he fled to his father's barn. Confined for this act in a public jail, in the irrepressible fury of his passion he tore out his own eyes, and in this condition, deaf, dumb, blind, and in jail, he lived forty years.*

From this dark picture we gladly turn to the contemplation of the blessings which education has conferred upon the deaf and dumb. To those who witnessed the interesting and satisfactory exhibition of pupils of the New York institution, held in this hall in April last, further remarks on this point will be superfluous. The graceful deportment, the happy and animated countenances, and the remarkable intellectual attainments of these deaf mutes, will not be forgotten by those who saw them.

The Abbé De Epée, whose labors in behalf of the deaf and dumb began in 1760, though not the first instructor of deaf mutes, was the first whose zeal, whose writings, and whose example of disinterested benevolence awakened a durable interest in the fate of these our unfortunate brethren, and led the way to the establishment of institutions for their instruction. Since the commencement of the present century these institutions, sharing in the cheering progress of other kindred interests, have

* Died in 1843, at the age of 70.

multiplied from three or four to one hundred and sixty in Europe—the greater number of them supported by the governments of the respective countries; and the remainder, particularly those in the British isles, by private benevolence. Institutions exclusively for pupils able to pay their own expenses are very rare, and the number of such pupils in public institutions seldom amounts to ten in a hundred.

The instruction of the deaf and dumb was introduced into the United States in 1817, by the Rev. Mr. Gallaudet, of Hartford. The institution of New York was founded the following year, and others have since successively sprung up. There are now public incorporated institutions in ten States. Ten other States, which have no institutions, still make provision for the education of their indigent deaf mutes in the institutions of neighboring States. In the ten institutions, eight hundred deaf mutes are actually under instruction, nine-tenths of whom are supported by appropriations made by law. The number who have been instructed is not far from two thousand.

But, though the labors of the friends of the deaf mute have been thus far crowned with success, much yet remains to be done even in the northern and middle States, while at the south and west the work is but just begun.

Enumerations of the deaf mute prohibition have been made in the United States, and in several of the countries of Europe. The details of these enumerations, digested with much care and labor, are contained in the 18th and 23d annual reports of the New York institution. A portion of these details will be given in statistical tables annexed to this report. It is unnecessary here to repeat more than the general results that bear upon the subject intrusted to the committee. We find that the number of deaf mutes in the Union, as returned by the census of 1840, was seven thousand six hundred and fifty-nine; but as there are conclusive reasons to believe that this was then below the actual number, by at least one-third, and as it is known that the number of deaf mutes increases in a ratio not differing greatly from the ratio of increase of the whole population, which would give a further increase of one-fifth since 1840, the present deaf mute population of the whole Union, including Texas, may be safely set down at over eleven thousand, of whom at least ten thousand are by birthright free citizens of the republic. This large number seems to be distributed with a remarkable approach to equality in every part of the country. There is hardly any county or considerable town in the Union which does not contain one or more deaf mutes; and no section with a population of half a million which does not contain more than one hundred and fifty. The average proportion cannot be estimated at less than one in sixteen hundred. In other words, one child in every sixteen hundred is either born deaf, or deprived of hearing in infancy by some of those diseases or casualties which so easily derange the delicate organization of children. The cases of the latter description are believed to make more than half of the whole number; and this gives a new interest to the subject, pressing it home to the bosom of every parent, of every brother, among us. Since the loss of hearing occurring at any time before the child has learned to read cuts it off from all the ordinary means of intellectual and moral culture, who can know that the most promising of his own children may not be thus afflicted?

We have said that our ten institutions for deaf mutes now contain about

seven hundred pupils. Five hundred of these (and a much larger proportion of those who have heretofore been instructed) are from the States north and east of the Potomac. Yet even in those States we know that the provision now made is inadequate. What, then, must it be at the south and west, where, among probably five thousand deaf mutes, not more than two hundred receive instruction? If even in the comparatively favored northern States there yet remain several hundred deaf mutes for whom institutions have opened their doors in vain, at the south and west there are thousands—thousands of American citizens, who never heard of Washington or of Franklin, of Bunker hill or of Yorktown—thousands who, living in a Christian land, and perhaps kneeling daily at the altar of a Christian family, know not that there is a future state of existence, punishment for sin beyond what man can inflict, or a Saviour for the penitent.

Our compassion has been justly invoked in behalf of the blind; yet to them come the voices of parent and brother, sister and friend, cheering to their material darkness with intellectual and moral light. Education augments their comfort, their sources of enjoyment, their means of subsistence; but *they* need not to be collected into institutions, or to be taught to read, in order to restore them to the sympathy and companionship, to the hopes, the aspirations, and the lofty privileges of their race. For them, institutions will do much; for the deaf and dumb, they must do every thing.

If it be admitted that the instruction of the deaf and dumb is an object worthy of national aid and favor, and that the provision already made for two State institutions ought in justice to be extended to others, there is no institution in the Union which can present stronger claims than that of New York. The high character of its direction, the zeal and success of its instructors, and the value of its annual reports and other publications, have won for it a reputation that has given new lustre to the character of our institutions in the eyes of Europe, and have lent a new and powerful impulse to the cause of deaf mute education at home. The elementary books for the use of the deaf and dumb, prepared by Mr. Peet, the president of this institution, and published at its expense, are the only works of the kind in the English language that have attained general favor, or have come into general use. These books have been adopted into all the American institutions, except one or two, and though so recently published, have already won their way, against the anti American prejudices of English teachers, into some schools in the British isles, and in British India.

Though this institution has never received any aid from the general government, and has no permanent funds except its investments in buildings, it receives pupils from other States at less than the actual cost of board and tuition, and has even supported and educated several such gratuitously. Its numerous and valuable publications—among which we may specify the report of its delegate to the schools of Germany—have been distributed gratuitously for the benefit of the cause throughout the Union.

We have already referred to the pecuniary embarrassments which have prompted the present application. As the institution has risen in public estimation, the number of its pupils has increased so rapidly that within thirteen years it has three times become necessary to enlarge the buildings. Like most of our public institutions of education, it receives on account

of pupils less than its actual expenses. Though other sources of income, chiefly provided by the munificence of the legislature of New York, make up for ordinary purposes that deficiency, still, several years must elapse before the debt of twenty thousand dollars, incurred on account of the last enlargement of the buildings, can be discharged from the ordinary resources of the institution; and in the mean time its usefulness will be diminished, and its conductors will be reduced to the painful necessity of refusing or deferring numerous applications now pending for the admission of indigent pupils.

But though, in urging the claims of the New York institution, we urge the claims of the largest and most useful institutions on this side of the Atlantic, representing one-seventh of the deaf mute population of the Union, we are far from desiring that it should receive any exclusive favors, or that the claims of sister institutions should be neglected. The institutions of Connecticut, Pennsylvania, Kentucky, Ohio, Virginia, Indiana, North Carolina, Illinois, and Tennessee, are well conducted, and have done, as we believe, all the good which their means and the short time most of them have been in operation would admit. Each of these institutions is designed to supply the wants of a large and populous State; and your committee respectfully recommend an appropriation of land to each of them, as well to the institution of New York. The grant of a township of land would relieve several of them from serious pecuniary embarrassments, while it would greatly promote the usefulness and prosperity of all.

To your committee it also appears proper and equitable to extend a similar grant to each of the States which have as yet no public incorporated institutions for deaf mutes, provided each State receiving the grant will, by law, appropriate it as a fund for the instruction of the deaf and dumb.

Some of these States will probably prefer to send their deaf mute pupils for instruction to institutions in neighboring States, as several of them now do, finding this better, both in point of expense and of thoroughness of instruction, than to establish schools for their own small number of deaf mutes. A large institution, with buildings, library, and apparatus already provided, can afford to receive an additional number of pupils, at a much cheaper rate than it will cost to establish and maintain a new institution for this additional number; and it is obvious that the former, by the greater experience of its instructors, the better classification of its pupils, and its superior facilities in teaching trades, will have many advantages for imparting a thorough education.

Still there are several large States (some of which are now sufficiently populous to furnish pupils for an institution, and others will be in a few years more) which will, on account of the distance from institutions already established, or for other reasons, find it advisable to establish schools for deaf mutes within their own limits, leaving each State to decide for itself whether it is more advisable to found a new institution, or send its indigent deaf mutes to an institution in another State. Your committee recommend that a township of land be granted to each State in the Union for this object.

It may seem unequal to give, for instance, as much to Arkansas or to Florida, with only one representative, as to New York with thirty-four. Your committee would gladly embrace any feasible mode of obviating this objection; but it must be recollected that all the States with less than four or five representatives, excepting two, are but just beginning to be

settled, and will, within a few years, rival Ohio and Virginia, if not New York, in population. As this distribution is to be made once for all, a distribution in the ratio of present population would be very unjust to the new States.

A bill embracing these provisions was introduced into Congress more than twenty years ago. That it failed, is much to be regretted. Had it passed, it would have given an impetus to the movements in behalf of the deaf and dumb much beyond their actual rate of progress for the last twenty years. Many whose chance for instruction has now gone by forever, might have been educated under the proposed grant. Even now the measure would be attended by great and obvious benefits. In ten States of the Union (counting Wisconsin, now forming a State government, for one) there is no provision whatever for the education of indigent deaf mutes, and in several others the provision is far from adequate. A grant from the general government would awaken the citizens and legislatures of these States to the importance of the subject, and be the means of unspeakable blessings to hundreds, who will probably be otherwise abandoned to ignorance and wretchedness for life.

Justice, however, would seem to require that the grant to a State which sends its deaf mutes to another State to be educated, should not be as large as to a State which has built up an institution of its own. The latter State is for the most part at the whole expense of erecting buildings and putting the institution into operation, expenses usually amounting to many thousands of dollars, while the charge to pupils from other States is never more (often much less) than the current annual expenses for each pupil. A grant of a whole township to a State institution which has or had a site to purchase, and buildings to erect, is less than a grant of half a township to a State whose wants are supplied by an institution in a neighboring State.

Another argument in favor of the discrimination proposed is found in the fact that the ten States in which there are institutions contained in 1840 more than two-thirds of all the deaf and dumb in the Union. From the statistical tables annexed to this report, it will be seen that while the States which contain institutions average four hundred and fifty-six white deaf and dumb persons in each, the States which contain no institutions average only one hundred and ten. Thus, while the discrimination proposed will reduce the whole amount of the grants nearly one-half, it will render the benefits conferred much more equal.

Since, however, some of the States which have no institutions for the deaf and dumb are extensive, and remote from established institutions, they may hereafter, when their population and resources have increased, find it desirable to establish such institutions within their limits. In such cases, it is obviously just that provision should be made to give the balance of the township of land to each institution which shall be hereafter incorporated and endowed by a State. The danger of an injudicious multiplication of institutions, which some have apprehended would be the effect of the bill formerly introduced into Congress, may be sufficiently guarded against by a provision that the State shall, from its own funds, endow the institution with a certain sum before it can claim the full grant of land, and by restricting this grant to a single institution in each State.

The only possible objection which your committee can conceive to the proposed grants is the state of the national finances, exhausted by an ex-

pensive war. But this is in fact no objection. No money will, under these grants, be drawn from the treasury, and it is not probable that any will be diverted from it during the continuance of the present war, as it must be some time before the lands can be located and brought into the market. The benefit to the schools in public confidence, in improved credit, and in encouragement to educational improvement, will commence with the passage of the law. The loss to the national treasury will be remote, if, indeed, it will ever be appreciable.

Your committee feel that whatever acts of their public lives they may hereafter find reason to wish undone, they shall ever recur with unalloyed satisfaction to their votes and efforts in behalf of an object like the present. Even while admitting the claims of national honor and national glory, the heart sickens at the contemplation of the incalculable sum of evil and suffering which war never fails to inflict; and even the more peaceful measures of public policy, in which party zeal is enlisted, if we can believe a tithe of what is urged—sincerely and honestly urged—against each rival scheme, must, in more or fewer cases, cause private distress, and work injury and even wrong to individual interests. How pleasant to find, even in this hall, an act to do, in which men of all parties can join as in one of pure beneficence; an act that shall call down on our heads the blessings of the poor and afflicted, that shall work wrong to none, and confer inappreciable benefits on multitudes, by diminishing the great sum of human ignorance and wretchedness.

APPENDIX.

TABLE I.

Number of deaf and dumb in each State and Territory in the Union in 1840.

1. STATES WHICH HAVE INSTITUTIONS.

	States.	Represent- atives in Congress.	Deaf and dumb.	
			White.	Colored.
New York -	-	34	1,039	68
Pennsylvania -	-	24	781	51
Ohio -	-	21	559	33
Indiana -	-	10	297	15
Illinois -	-	7	155	24
Virginia -	-	15	453	150
North Carolina -	-	9	280	74
Tennessee -	-	11	291	67
Kentucky -	-	10	400	77
Connecticut -	-	4	309	8
		145	4,564	567

2. STATES WHICH HAVE NO INSTITUTIONS.

	States.	Represent- atives in Congress.	Deaf and dumb.	
			White.	Colored.
*Maine -	-	7	222	13
*New Hampshire -	-	4	181	9
*Vermont -	-	4	135	2
*Massachusetts -	-	10	273	17
*Rhode Island -	-	2	74	3
*New Jersey -	-	5	164	15
*Delaware -	-	1	65	8
*Maryland -	-	6	178	66
*South Carolina -	-	7	140	78

NOTE.—The States marked thus (*) make provision for the education of their indigent deaf mutes in the institutions of other States.

STATES WHICH HAVE NO INSTITUTIONS—Continued.

States.	Represent- atives in Congress.	Deaf and dumb.	
		White.	Colored.
Georgia - - - - -	8	193	64
Alabama - - - - -	7	173	53
Mississippi - - - - -	4	64	28
Louisiana - - - - -	4	42	17
Arkansas - - - - -	1	40	2
Missouri - - - - -	5	126	27
Michigan - - - - -	3	31	2
Iowa - - - - -	1	10	4
Wisconsin - - - - -	1	5	
Florida - - - - -	1	14	2
Texas (estimated) - - - - -	2	30	10
District of Columbia - - - - -	-	8	4
	83	2,148	424

TABLE II.

Number of white deaf and dumb in each section of the Union.

	Under 14.	14 to 25.	Above 25.
New England - - - - -	248	362	584
Middle States - - - - -	545	621	853
Southern Atlantic States - - - - -	377	357	318
Southwestern States - - - - -	405	354	391
Northwestern States - - - - -	344	352	361
	1,919	2,056	2,707

Notes.—The States marked thus (*) make provision for the education of their indigent deaf-mutes in the institutions of other States.

TABLE III.

Proportions of deaf and dumb to the white population of the same ages.

	Under 14.	14 to 25.	25 and upwards.
New England	1 : 3,060	1 : 1,397	1 : 1,605
Middle States	1 : 3,207	1 : 1,660	1 : 1,957
Southern Atlantic States	1 : 2,560	1 : 1,415	1 : 1,438
Southwestern States	1 : 2,664	1 : 1,472	1 : 1,873
Northwestern States	1 : 3,882	1 : 1,902	1 : 2,642
The whole Union in 1840	1 : 3,062	1 : 1,558	1 : 1,871
The whole Union in 1830	1 : 2,716	1 : 1,278	1 : 1,996

From these tables it is evident that the returns are very imperfect with respect to the number of deaf mutes under fourteen years, of whom it would seem hardly one-half are returned. On this supposition the following table has been formed. Doubling the number returned, as under fourteen, we have—

TABLE IV.

	White deaf and dumb.	White population.	Ratio.
New England	1,442	2,212,165	1 : 1,534
Middle States	2,574	4,465,154	1 : 1,735
Southern Atlantic States	1,629	2,240,991	1 : 1,375
Southwestern States	1,555	2,322,601	1 : 1,500
Northwestern States	1,401	2,938,307	1 : 2,097
	8,601	14,189,218	1 : 1,649

Allowing an increase of one-fifth since 1840, the present number of white deaf mutes (in 1847) will be 10,321. There were 977 colored deaf mutes returned in 1840.

TABLE V.

Principal European institutions for the deaf and dumb.

Institutions.	Founded.	Principals.	Pupils.
London	1792	Thomas J. Watson	280
Manchester	1824	Andrew Patterson	80
Doncaster	1829	Charles Baker	80
Edinburgh	1810	Robert Kinniburgh	74
Glasgow	1819	Duncan Anderson	70
Dublin	1816	James Cooke	122
Paris	1760	De Lanneau	160
Bordeaux	1786	Valade Tabel	100
Caen	1816	Jamet	127
Genoa	1801	Boselli	84
Vienna	1779	Venus	75
Berlin	1788	Saegert	70
Leipsig	1778	Reich	60
Bruges	1831	Carton	90
Groningen, Holland	1790	C. & R. Guyot	161
Copenhagen	1807	Heiberg	100
Schleswig	1799	Hinsen	94
St. Petersburg	1816	Henry	97

1870	1871	1872	1873	1874	1875	1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	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TABLE VI.

Number of institutions and pupils in each country.

	Institutions.	Pupils.
Great Britain and Ireland	16	1,000
France -	43	1,576
Italy -	9	259
Switzerland -	10	241
Austria -	9	213
Prussia -	25	560
Bavaria -	10	100
Wurtemberg and Baden	6	158
Other German States -	15	350
German Free Cities -	4	50
Denmark, Norway, and Sweden	4	254
Russia and Poland -	2	145
Belgium and Holland -	8	400
United States of America	10	700
British India -	1	20
	172	6,026

In most of the above countries the provision is very far from adequate. The number of deaf mutes in Europe is estimated at 150,000, of whom 25,000 ought to be constantly in school in order to educate the whole. In the United States, at least 2,000 ought to be constantly under instruction.

TABLE VII.

American institutions for the deaf and dumb.

Institutions.	Founded.	Principals.	Teachers.	Pupils.	Date of information.
Hartford, Connecticut	-	Lewis Weld	10	196	December, 1846.
New York -	-	H. P. Peet -	10	208	January, 1847.
Philadelphia -	-	A. B. Hutton	7	106	January, 1846.
Danville, Kentucky -	-	J. A. Jacobs	2	35	1844.
Columbus, Ohio -	-	H. N. Hubbell	6	104	1846.
Staunton, Virginia -	-	J. D. Tyler -	2	37	January, 1847.
Indianapolis, Indiana -	-	Jas. S. Brown	1	50	November, 1846.
Knoxville, Tennessee	-	Thos. McIntyre	1	20	November, 1846.
Raleigh, North Carolina	-	Wm. D. Cooke	2	23	January, 1847.
Jacksonville, Illinois -	-	Thos. Officer	1	20	October, 1846.
				799	

H. CARRINGTON, EXECUTOR OF PAULINA LEGRAND.

February 17, 1847.

Read, and will appear on the table.

Mr. ATKINSON, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions have, according to order, read and under their consideration the petition of H. Carrington, executor of Mrs. Paulina Legrand, deceased, and respectfully make the following report:

It appears to your committee that the deceased was the widow of Captain Edmund Reid, of Major Nelson's corps of Virginia State cavalry in the revolutionary war. She was placed on the pension list at the rate of \$600 per annum, which was fully paid to her up to the — day of March, 1844. She died on the 5th of February, 1845, having previously, during the autumn of 1841, made regular application at the public office at Richmond, in the State of Virginia, for the semi-annual payment of \$300, which all due to September of that year, payment of which was refused, because Congress had not made appropriations for the payment of pensions of that year. The said Paulina Legrand died on the 5th of February, 1845, leaving no children, having first made her last will and testament, which was duly proved according to the laws of Virginia, and the petitioner, Henry Carrington, qualified as her executor.

The executor presented to the Commissioner of Pensions a claim for the arrears of pension from the — day of March, 1844, to the 5th of February, 1845, when the said pensioner died. This claim was disallowed by the Commissioner of Pensions; and the judgment of that officer being unsatisfactory to the executor, an appeal was taken to the Attorney General, who gave a fiat, and in the opinion of this committee a just and proper decision, adverse to the claim of the petitioner, and fully sustaining the views of the Commissioner of Pensions; and now the executor invokes the aid of Congress.

The question, then, for the committee, is, whether the words or the spirit of the acts of Congress now in force require the interposition of the legislature to overrule the judgment of the Commissioner.

A pension, by the force of the term, is a public gratuity, not a debt, and is designed to be a personal benefit for some peculiar merit, and cannot, upon any principle of right, be made to extend beyond the object for which it was clearly intended. The several pension laws passed previous to the act of the 19th of June, 1839, made no provision for the payment of arrears of pensions due to female pensioners; and the act of 1840, un-
Richd. & Meier, print.

TABLE VII.

Deaths and burials for the day and date.

Location	Residence	Parish	Page	Death	Burial
Hartford, Connecticut	Lewis Wolf	IX	199	December, 1846.	1846.
New York	H. P. Post	VI	200	January,	1847.
Philadelphia	A. R. Hutton	I	109	January,	1848.
Danville, Kentucky	J. A. Jacobs	II	35	1841.	1841.
Columbus, Ohio	H. N. Herbert	III	103	1848.	1848.
Staunton, Virginia	J. D. Tyler	IV	107	January,	1847.
Indianapolis, Indiana	Jas. S. Brown	V	91	November,	1848.
Knoxville, Tennessee	Thos. McIntyre	VI	90	November,	1848.
Raleigh, North Carolina	Wm. D. Cooke	VII	93	January,	1847.
Jacksonville, Illinois	Thos. O'Neil	VIII	90	October,	1848.
			799		

H. CARRINGTON, EXECUTOR OF PAULINA LEGRAND.

FEBRUARY 17, 1847.

Read, and laid upon the table.

Mr. ATKINSON, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions have, according to order, had under their consideration the petition of H. Carrington, executor of Mrs. Paulina Legrand, deceased, and respectfully make the following report:

It appears to your committee that the deceased was the widow of Captain Edmond Reid, of Major Nelson's corps of Virginia State cavalry in the revolutionary war. She was placed on the pension list at the rate of \$600 per annum, which was fully paid to her up to the — day of March, 1844. She died on the 5th of February, 1845, having previously, during the autumn of 1844, made regular application at the pension office at Richmond, in the State of Virginia, for the semi-annual instalment of \$300, which fell due in September of that year, payment of which was refused, because Congress had not made appropriations for the payment of pensions of that year. The said Paulina Legrand died on the 5th of February, 1845, *leaving no children*, having first made her last will and testament, which was duly proved according to the laws of Virginia, and the petitioner, Henry Carrington, qualified as her executor.

The executor presented to the Commissioner of Pensions a claim for the arrears of pension from the — day of March, 1844, to the 5th of February, 1845, when the female pensioner died. This claim was disallowed by the Commissioner of Pensions; and the judgment of that officer being unsatisfactory to the executor, an appeal was taken to the Attorney General, who gave a lucid, and in the opinion of this committee a just and proper decision, adverse to the claim of the petitioner, and fully sustaining the views of the Commissioner of Pensions; and now the executor invokes the aid of Congress.

The question, then, for the committee, is, whether the words or the spirit of the acts of Congress now in force require the interposition of the legislature to overrule the judgment of the Commissioner.

A pension, by the force of the term, is a public gratuity, *not a debt*, and is designed to be a *personal* benefit for some *peculiar* merit, and cannot, upon any principle of right, be made to extend beyond the object for which it was clearly intended. The several pension laws passed previous to the act of the 19th of June, 1840, made no provision for the payment of arrears of pensions due to *female* pensioners; and the act of 1840, un-

der which alone arrears of females' pensions are disposed of, declares that "in case of the death of any pensioner, whether male or female, *leaving children*, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an administrator." The act of Congress passed in 1829 is relied on by the petitioner as conclusive in his favor, but your committee cannot see that the provisions of that act touch the case under consideration. The act of 1829, to which the petitioner refers, applies exclusively to the case of the death of a *revolutionary pensioner*, and in such event the arrears of pension due the deceased shall be paid to the widow, or, if she be dead, to the children of the pensioner, or to *their* guardian or his attorney; and if no child or children, then to the legal representative of the deceased. This act was not designed to dispose of any arrears of pension due to a female pensioner, because upon the death the money in arrear was to be paid to the *widow first*, &c.; conclusively showing that it provided alone for the case of a *revolutionary pensioner*; and not the widow who had been pensioned, and died. The act of 1840 shows that Congress did not, when passing it, consider that there was *then* any law providing for the disposition of arrears of females' pensions. Under that act, the only one under which arrears of pension due a female pensioner can be claimed, it is provided, "that in case any pensioner who is a widow shall die, *leaving children*, the amount of pension due at her death shall be paid to the executor or administrator for the benefit of *her children*;" but it is expressly provided that the same shall not be considered a part of the assets of the estate, nor liable to be applied to the payment of the debts of said estate in any case whatever. It therefore appears clearly to your committee that in the case now before them, the widow having died without issue, the executor is not entitled to the arrears of pension due to Mrs. Legrand. Were he to receive it, it would not be assets of her estate for which, according to the usual terms of an executorial bond, he would be bound to account—indeed, there would be no person to whom he would have to account; it would not be subject to the payment of the debts of Mrs. Legrand, nor could it be distributed among her next of kin. Your committee, therefore, have come to the following resolution:

Resolved, That the petitioner, as executor of Paulina Legrand, is not entitled to be paid the arrears of pension due to her at her death, and that the prayer of the petitioner be rejected.

— *Resolved*, That the petitioner, as executor of Paulina Legrand, is not entitled to be paid the arrears of pension due to her at her death, and that the prayer of the petitioner be rejected.

The question, then, for the committee, is, whether the words of the spirit of the acts of Congress now in force require the interposition of the legislature to overturn the judgment of the Commissioner.

A pension, by the force of the term, is a public gratuity, not a debt, and is designed to be a personal benefit for some peculiar merit, and cannot upon any principle of right, be made to extend beyond the object for which it was clearly intended. The several pension laws passed previous to the act of the 19th of June, 1840, made no provision for the payment of arrears of pensions due to female pensioners; and the act of 1840, un-

NOAH A. PHELPS.

[To accompany bill H. R. No. 673.]

FEBRUARY 24, 1847.

Mr. POLLOCK, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the claim of Noah A. Phelps, report:

That the prayer of the petitioner ought to be granted, and they herewith report a bill for his relief, and recommend its passage.

The papers hereto annexed will explain the case, and develop its true nature to the consideration of the House.

To the Senate and House of Representatives of the Congress of the United States, now in session:

The petition of Noah A. Phelps, of Middletown, in the State of Connecticut, respectfully represents:

That at a session of the district court of the United States holden at Hartford, within and for the district of Connecticut, on the 4th Tuesday of May, A. D. 1846, the petitioner, by the consideration of the said court, recovered a judgment against the United States for the sum of four hundred and sixteen dollars and thirteen cents, as will more fully appear by a copy of the record, duly authenticated and attested, herewith transmitted.

And, inasmuch as the petitioner has no means of obtaining satisfaction for this judgment except by the interposition of Congress, he respectfully asks that the said amount due him, to wit: \$416 13, may be allowed, and an appropriation made in his favor for the payment thereof.

NOAH A. PHELPS.

MIDDLETOWN, CONN., December 26, 1846.

DISTRICT COURT OF CONNECTICUT, SS.

At a district court of the United States of America holden at Hartford, within and for the district of Connecticut, on the 4th Tuesday of May, A. D. 1846.

Present, Hon. ANDREW T. JUDSON, *District Judge.*

UNITED STATES

vs.

NOAH A. PHELPS & Co.

Be it remembered, that Noah A. Phelps and Edwin Stearns, of Middle-

town, and John Stewart, of Chatham, in the State and district of Connecticut, were attached and summoned by writ, served the 11th day of August, A. D. 1845, to appear before this court at the term thereof holden at New Haven, within and for said district, on the 4th Tuesday of August, A. D. eighteen hundred and forty-five, then and there, before said court, to answer unto the United States of America in a plea that the defendants render to said plaintiff the sum of ten thousand dollars, which sum said defendants owe to and detain from the said plaintiffs. Whereupon the said plaintiff declares and says: That said defendants, in and by a certain writing or bond obligatory by them, well executed under their hands and seals, dated the twentieth day of March, one thousand eight hundred and thirty-seven, jointly and severally acknowledged themselves holden and firmly bound and obliged to the said plaintiff in the sum of ten thousand dollars, to be paid to the said plaintiff as by said writing or bond obligatory, ready in court to be shown. Yet the said defendants, although often requested and demanded so to do, have not paid all or any part of the said sum, nor has either of the said defendants paid all or any part of the said sum above demanded, to the said plaintiff, but hitherto always have, and still do wholly neglect and refuse so to do, to the plaintiff's damage ten thousand dollars, wherefor the said plaintiff brings this suit.

And the said United States, by Jonathan Stoddard, esq., their attorney, appear; and the said defendants, by their attorney, also appear; and the premises were continued from term to term of the said district court, the parties aforesaid appearing at each term of the court, to the term of this court, holden at New Haven, in said district, on the fourth Tuesday of February, A. D. eighteen hundred and forty-six, at which last mentioned term of this court the parties aforesaid also appear.

And now the said defendants come and defend the wrong and injury, when, &c., and crave oyer of the said writing obligatory in the said declaration mentioned, and also of the condition of the said writing obligatory, and the same are read to them in these words:

Know all men by these presents, that we, Noah A. Phelps and Edwin Stearns, of Middletown, and John Stewart, of Chatham, in the State of Connecticut, are held and firmly bound unto the United States of America in the full and just sum of \$10,000 money of the United States, to which payment well and truly to be made we bind ourselves jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated this 20th day of March, 1837. The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed said Noah A. Phelps to the office of collector of the customs for the district of Middletown, in the State of Connecticut:

Now, therefore, if the said Noah A. Phelps has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office according to law, then the above obligation to be void and of none effect, otherwise it shall abide and remain in full force and virtue.

NOAH A. PHELPS, [SEAL.]
EDWIN STEARNS, [SEAL.]
JOHN STEWART, [SEAL.]

Which being read to them, the defendants say that the said plaintiffs ought not to have or maintain their aforesaid action thereof against them, because they say that the said Noah A. Phelps did from time to time, and at all times during the period he held the office of collector of the customs for the district of Middletown, in the State of Connecticut, mentioned in the condition of said bond, truly and faithfully execute and discharge all the duties of the said office according to law, according to the tenor and effect, true intent and meaning of the said condition of the said writing obligatory, and this they are ready to verify. Wherefore they pray judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against them, &c.

And with said plea the defendants filed the following claim and motion, to wit:

District Court of the United States, District of Connecticut:

In the matter of

UNITED STATES, plaintiffs,

vs.

N. A. PHELPS, J. STEWART,
and E. STEARNS, defendants.

Action of debt on bond.

In this case, at the trial thereof, the defendants will offer in evidence, for allowance as a set-off, or in extinguishment of the said demand of the United States against them, the following items of claims in their favor, each of which has been presented to, and disallowed by, the Treasury Department of the United States:

1. A payment of the sum of two thousand dollars.
2. The sum of six hundred and three dollars and six cents, being balance of account for disbursements and compensation for services of Noah A. Phelps, one of the defendants, as agent for the construction of the custom-house at Middletown in said district.
3. The sum of seven hundred and twenty one dollars and twenty-nine cents, claimed to be due said Phelps from the United States, under the provisions of sundry acts of Congress passed in 1840 and 1841, for the relief of certain collectors of customs. December 4, 1845.

INGERSOLL & PHELPS,

Attorneys for defendants.

JONATHAN STODDARD, Esq.,

United States Attorney for the district of Connecticut.

And now the marshal of the said district of Connecticut is commanded that he cause to come here immediately twelve, &c., by whom, &c., and who, &c., to recognise, &c.

And the jurors of the said jury, by the marshal for that purpose empannelled and returned, to wit: Caleb Mix, David W. Buckingham, Henry Peck, Harry Prescott, Frederick S. Parker, Zebul Bradley, Nehemiah Kimberly, Lyman Law, Mansfield Smith, Thomas Cornwell, Gilbert Nettleton, Charles E. Smith, being called, come, who being elected, tried, and sworn to speak the truth of and concerning the premises, on oath return into court the following as their verdict, to wit:

UNITED STATES }
 vs. } At term February, 1846.
 NOAH A. PHELPS. }

In this case the jury find that on the 11th day of August, 1845, the defendant did owe the United States, as in the declaration is alleged, the sum of - - - \$2,817 14
 With the interest thereon from the said 11th day of August, 1845, to the 25th day of February, 1846, being 6 months and 14 days - - - 91 08

And that on the day last mentioned the defendant paid into court for the use of the plaintiffs - - - 2,908 22
 - - - 2,000 00

Which balance of - - - 908 22

the jury find for the plaintiffs to recover of the defendant said sum of \$908 22, with costs, unless by law one of the defendants, Noah A. Phelps, is entitled to an allowance of one or both of the following claims heretofore presented at the Treasury Department and there disallowed, to wit:

Balance of Noah A. Phelps's account as agent for the construction of custom-house and public buildings at Middletown - - - \$603 06

And amount of extra allowance for compensation under acts of Congress - - - 721 29

1,324 35

And the jury find that the services rendered and the articles were supplied the United States by said Noah A. Phelps, to the sum of \$1,324 35, which, if by law allowable to the defendants, then the defendants do not owe the plaintiff the said sum of \$908 22, but that there is now justly due to the defendants, from the United States, the sum of \$416 13. The jury finding these facts, return into court this verdict, subject to the opinion of the court as to the law arising thereon.

ZEBUL BRADLEY, *Foreman.*

And the court not being sufficiently advised what judgment to render in the premises, the premises are therefore continued to the term of this court holden at Hartford, in said district, on the fourth Tuesday of May, A. D. 1846, at which last-mentioned term of the court the parties aforesaid appeared by their respective attorneys aforesaid.

And now, this court having sufficiently considered the premises, and mature deliberation being had thereon, it is considered by the court here that by law the said defendant, Noah A. Phelps, is entitled to be allowed the said sum of thirteen hundred and twenty-four dollars and thirty-five cents, mentioned in the said verdict of the said jury, and that the said defendants do not owe the said plaintiffs any thing, in manner and form as the plaintiffs in their declaration have alleged, but that there is now due to the said defendant, Noah A. Phelps, from the plaintiffs, the sum of four hundred sixteen dollars thirteen cents.

It is therefore considered by the court here that the said United States

do not recover of the said defendants any thing as a debt, but that they do recover of the said defendants the sum of thirty-one dollars fifty-three cents for their costs, which accrued to them prior to the payment of the said two thousand dollars into court for the use of the plaintiffs.

And it is further considered that the said United States do owe the said Noah A. Phelps the sum of four hundred sixteen dollars thirteen cents, and that the said Noah A. Phelps is entitled to have and receive the same of and from the said United States.

Attest:

CHAS. A. INGERSOLL, *Clerk.*

DISTRICT OF CONNECTICUT, ss:

OFFICE OF CLERK DISTRICT COURT U. S. FOR SAID DISTRICT,
December 24, A. D. 1846.

The foregoing is a true copy of the original record, examined and compared by me. Witness my hand and seal of office the day and date above written.

CHAS. A. INGERSOLL, *Clerk.* [L. s.]

do not recover of the said defendants any thing as a debt, but that they do recover of the said defendants the sum of thirty-one dollars fifty-three cents for their costs, which accrued to them prior to the payment of the said two thousand dollars into court for the use of the plaintiffs.

And it is further considered that the said United States do owe the said Noah A. Phelps the sum of four hundred sixteen dollars thirteen cents, and that the said Noah A. Phelps is entitled to have and receive the same of and from the said United States.

CHAS. A. INGERSOLL, Clerk.

Office of Clerk District Court U. S. for said district,
December 24, A. D. 1846.

The foregoing is a true copy of the original record, examined and compared by me. Witness my hand and seal of office this day and date above.

CHAS. A. INGERSOLL, Clerk. [1. 3.]

FIRE-PROOF BUILDING AT NANTUCKET.

[To accompany H. R. No. 68.]

FEBRUARY 24, 1867.

Mr. GAINNELL, from the Committee on Commerce, made the following

REPORT:

The Committee on Commerce, to whom was referred the petition of P. H. Folger and other citizens of Nantucket, praying Congress to make an appropriation of \$20,000 for the erection of a building for a custom-house and post office at that place, report:

That it appears by said petition, that in a recent destructive fire at that place a large part of the town was destroyed; that a fire-proof building for said offices is much needed for the security of the public revenues; that the town is mostly built with wood. Your committee, after due consideration of the claims of this town to the accommodations asked for, have concluded to report a bill making an appropriation of \$20,000.

Enos & Sons, printers.

FIRE-PROOF BUILDING AT NANTUCKET.

[To accompany bill H. R. No. 675.]

FEBRUARY 24, 1847.

Mr. GRINNELL, from the Committee on Commerce, made the following

REPORT :

The Committee on Commerce, to whom was referred the petition of P. H. Folger and other citizens of Nantucket, praying Congress to make an appropriation of \$20,000 for the erection of a building for a custom-house and post office at that place, report :

That it appears by said petition, that in a recent destructive fire at that place a large part of the town was destroyed ; that a fire proof building for said offices is much needed for the security of the public archives. This town is mostly built with wood. Your committee, after deliberately considering the claims of this town to the accommodation asked for, have concluded to report a bill making an appropriation of \$10,000.

Richie & Heiss, printers.

FIRE-PROOF BUILDING AT NANTUCKET.

[To accompany bill H. R. No. 675.]

FEBRUARY 24, 1847.

Mr. Gannett, from the Committee on Commerce, made the following

REPORT:

The Committee on Commerce, to whom was referred the petition of P. H. Folger and other citizens of Nantucket, praying Congress to make an appropriation of \$20,000 for the erection of a building for a custom-house and post office at that place, report:

That it appears by said petition, that in a recent destructive fire at that place a large part of the town was destroyed; that a fire proof building for said offices is much needed for the security of the public archives. This town is mostly built with wood. Your committee, after deliberately considering the claims of this town to the accommodation asked for, have concluded to report a bill making an appropriation of \$10,000.

Enclie & Hies, printers.

GEORGE B. DIDLAKE.

[To accompany bill H. R. No. 678.]

FEBRUARY 24, 1847.

Mr. BUFFINGTON, from the Committee on the Judiciary, made the following

REPORT :

Benjamin J. Harrison was appointed surveyor for the port of Louisville, Kentucky, and on the 16th day of March, 1835, gave bond in the penal sum of *one thousand dollars*, with James Harrison and others as his securities.

B. J. Harrison having defaulted as surveyor, the Solicitor of the Treasury, on the 16th day of February, 1837, caused a warrant of distress to issue against said Harrison and his securities for \$3,159 15. James Harrison being the only solvent man on the bond, on the 2d day of March, 1837, paid to the marshal \$1,000, and for costs \$80 66; and, under the belief that he was legally liable for the full amount of the defalcation, on the 4th day of April, 1837, executed his two notes to the Treasurer of the United States, with James H. Overstreet and George B. Didlake as his securities: the first for \$1,338 65, payable 4th April, 1839; the second for \$1,144 37, payable 4th April, 1840. These notes were afterwards reduced by credits—the first to \$707 29, and the second to \$707 30; and not being paid at maturity, were sued on, and judgments obtained; and the credit on the larger note was not entered or noticed in rendering judgment thereon, so that the judgment is for too much by over \$600.

Executions issued on both judgments, and real estate of the security (James H. Overstreet) was levied upon and sold for \$2,600, being more than was justly due. James Harrison, the principal in the notes, has taken the benefit of the bankrupt law.

The committee being of opinion that the securities of the surveyor were not legally bound for more than the penalty of the bond, and that the notes were executed by the obligors under a misapprehension of liability, they believe that the petitioners are entitled to the relief prayed for, and report a bill for that purpose.

Ritchie & Heiss, print.

GEORGE B. DIDLAKE.
[To accompany bill H. R. No. 678.]

FEBRUARY 24, 1847.

Mr. Burrington, from the Committee on the Judiciary, made the following

REPORT:

Benjamin J. Harrison was appointed surveyor for the part of Louisville, Kentucky, and on the 15th day of March, 1835, gave bond in the penal sum of one thousand dollars, with James Harrison and others as his securities.

B. J. Harrison having defaulted as surveyor, the Solicitor of the Treasury, on the 15th day of February, 1837, caused a warrant of distress to issue against said Harrison and his securities for \$3,159 15. James Harrison being the only solvent man on the bond, on the 24 day of March, 1837, paid to the marshal \$1,000, and for costs \$80 66; and, under the belief that he was legally liable for the full amount of the delinquency, on the 4th day of April, 1837, executed his two notes to the Treasurer of the United States, with James H. Overstreet and George B. Didlake as his securities: the first for \$1,338 66, payable 4th April, 1839; the second for \$1,444 37, payable 4th April, 1840. These notes were afterwards reduced by credits—the first to \$707 29, and the second to \$707 30; and not being paid at maturity, were sued on, and judgments obtained; and the credit on the larger note was not entered or noticed in rendering judgment thereon, so that the judgment is for too much by over \$600.

Executions issued on both judgments, and real estate of the security (James H. Overstreet) was levied upon and sold for \$2,600, being more than was justly due. James Harrison, the principal in the notes, has taken the benefit of the bankrupt law.

The committee being of opinion that the securities of the surveyor were not legally bound for more than the penalty of the bond, and that the notes were executed by the obligors under a misapprehension of liability, they believe that the petitioners are entitled to the relief prayed for, and report a bill for that purpose.

Wm. A. Hest, printer.

PRESIDENT'S MESSAGE.

FEBRUARY 24, 1847.

Mr. C. J. INGERSOLL, from the Committee on Foreign Affairs, made the following

REPORT:

The Committee on Foreign Affairs, to whom the President's war message of the 13th instant has been in part referred, respectfully report thereupon:

That while, in a country so free as ours, diversity of sentiment must prevail on every topic of national concern, especially one so exciting as war, and is like bracing airs of salutary influence, yet the large preponderance of votes, approaching to unanimity, in Congress, declaring war with Mexico, the corresponding unanimity with which all required supplies for it have been granted by Congress, and the almost equally unanimous popular zeal for waging and sharing its operations, remove all doubt of the national resolution to prosecute it as originally declared, vigorously, to the only end of just war, a speedy and honorable peace.

Complaints of the resort to territorial conquest from Mexico are disarmed of reproach by the undeniable facts that Mexico, by war, constrains the United States to take by conquest what, ever since Mexican independence, every American administration has been striving to get by purchase; and that the Executive orders, and military and naval execution of them, for the achievement of conquest, have conformed not merely to long established policy of our own government, but wise principles of self preservation indispensable to all provident government.

The war has been one constant career of success, with never ceasing solicitation of peace without further hostility, if Mexico will accept peace on fair, generous, and lasting terms; and your committee cheerfully leave it to the judgment of all considerate persons. One imputation cast, among ourselves, upon the Executive of the United States, involving the country with him in illegality and aggression, your committee think proper briefly to refute: that which charges the President with producing or beginning the war by orders to the army in Texas to pass Mexican boundaries.

Mexico never made boundary a question. The issue she took was the annexation of Texas, not the boundary. As soon as annexation was resolved by Congress, the Mexican minister here, Almonte, demanded his passports, having previously removed from Washington while that question was even considered, and went indignantly home to make war. Encouraged by the erroneous assertion of many of our respectable citizens, that annexation of Texas would be war with Mexico, and by the then

threatened rupture between the United States and England, which was reckoned Mexican reliance, Mexico openly prepared for war—openly declared and began it. President Polk's minister of peace, Mr. Slidell, was rejected; not on any plea of boundary, but because Texas was not altogether relinquished. Mexican troops were sent to the Texan frontier, who crossed the boundary river Grande, and attacked the American forces on this side of that river. Stationed at Corpus Christi, on the west side of the Nueces, at the instance of Texas, for its protection from invasion, the American commander, without orders from the President, would have had no alternative but to let his Mexican assailant choose the place, time, and manner of invasion; or, by advancing into the more northern part of the State he was ordered to occupy and protect, make a proper selection of the ground on which to defend it.

It was General Taylor's duty as a soldier, without orders, and the President's right as commander-in-chief to order General Taylor, to repel the threatened invasion in progress to subdue Texas. If, by remaining inactive at Corpus Christi, he had allowed an overpowering force to subdue him there, as was the Mexican design, or leaving him idle there, to penetrate further north into the heart of Texas, the general and President would have been justly condemned for the commencement of hostilities fatal to us by hostile occupation of our territory, instead of successful by our frustrating the hostile Mexican attempt. An intimation in Congress lately that the Mexican general gave it to be understood that he would remain west of the Colorado creek—a small stream between the Nueces and the Grande—if our troops would remain east of that stream, your committee, after inquiry, learn to be groundless. If any such communication was authorized, it was a mere Mexican contrivance to lull our commander into false security at Corpus Christi till Mexican troops could be assembled strong enough to cross and attack him there, as was the Mexican design; for Corpus Christi, on the west side of the Nueces, was as much Mexican soil as any other part of the territory west of that river, and General Taylor's encampment at first was an invasion of Mexico, if he ever invaded Mexico at all.

The unauthentic and irresponsible intimation of that overture was received at Washington the 6th of November, 1845, just when Mr. Black's advices arrived of the willingness of Herrera's government to receive a minister; and Mr. Slidell was thereupon forthwith despatched, General Taylor's army being kept at Corpus Christi till tidings were received of Mr. Slidell's rejection, Herrera's overthrow, and Paredes's presidency, on the proclaimed determination to retake Texas by force from the United States. General Taylor's orders to march from Corpus Christi did not leave Washington till the 13th of January, 1846; nor did he march till more than two months afterwards, and then to station his troops wherever he thought best for protecting Texas from Mexican invasion, without any order from the President as to the precise place where he was to station his forces. Always west of the Nueces from the first moment of his entry into Texas, General Taylor planted his standard on the Grande, opposite to Matamoras, as his own military selection of the most eligible station for defending Texas.

No part of the ground between the Nueces and the Grande ever was Mexican soil. Louisiana, by all ancient, acknowledged, and unquestionable boundaries, extended to the Grande. Such was the boundary of that

province at all times, till transferred in 1800, by Spain, to France, and in 1803 by France to the United States. In 1819, when the United States transferred Texas to Spain, the western limit was the Grande—as well known as that the Sabine was the eastern limit. In 1824, when Mexican independence was established, the boundaries of Texas remained the same. In 1835, when Santa Anna was foiled in his attempt to subjugate Texas, and Texas was constrained to conquer independence, its western boundary was the Grande, as always theretofore. No time or occasion can be mentioned when Mexican eastern limit was the Nueces. Accordingly, all the acts, records, and proceedings of the republic of Texas treat the Grande as its southwestern boundary. Numerous evidences of this have been made known which your committee will not recapitulate, but superadd some more not yet generally known. The local land office at San Antonio, the chief place of the county of Bexar, regularly issued grants of land located beyond the Nueces, and to the Grande. The present respectable chief justice of Texas, on his circuit several years ago in that county, charged the grand jury to present all inhabitants beyond the Nueces, as far as the Grande, as Texan citizens, for any offences they might be guilty of. A grant of land to an English subject named Beals, bounded expressly by the Grande, became the subject of official correspondence between the Texan and British governments, the latter recognising that river as the Texan boundary. The custom-house at Corpus Christi, on the west side of the Nueces, was a source of considerable revenue to the Texan government. That government, at considerable expense, kept up a body of troops to range that region and prevent Indian depredations there. In short, all the public acts of Texas, and all their public transactions, predicate their right to the Grande. The wilderness between the Nueces and the Grande would be the haunt and hiding place of savages, smugglers, marauders, and robbers, if the Rio Grande were not the boundary, and the settlements east of it, throughout that wilderness, under Texan jurisdiction. No Mexicans have ever been there but as temporary invaders. General Woll's proclamation at Mier the 20th June, 1844 is official proof that the Mexican government acknowledged the Grande as its eastern limit. Finally, when Mexico, under British and French influence, offered Texas independence on condition that she should not annex herself to the United States, Mexico herself acknowledged the Grande as the boundary, while the attempted condition was null and void. Nor is there any contrary Mexican assertion to be found at any time from the date of Mr. Poinsett's declaration to Mr. Alaman, in the city of Mexico, the 29th September, 1825, that he did not intend to yield one square inch of ground east of the Grande as American ground in 1803. For the sixteen years from 1803 to 1819, that river was the undisputed southwestern boundary of the United States. From 1819 to 1821 it was Spanish. From February, 1821, when the Mexican revolution broke out, till 1835, it was Mexican by mere title; but, from 1835 till now, Texan by right and occupation, cultivation, and jurisdiction. Not a single foothold, by actual possession, had Mexico ever there, except by Texan occupants.

In this brief summary of proofs that the territory beyond the Nueces, and between that river and the Grande, was not Mexican ground, your committee have pretermitted all acts and assertions of the United States to that effect. Looking to original French and Spanish title, to independ-

ent Texan jurisdiction, to English recognition, and finally Mexican acknowledgment, it cannot be perceived how President Polk could withhold the order to General Taylor to advance from Corpus Christi further north into Texas in order to repel approaching invasion. A chief magistrate whose duty it is to execute the law would have been culpably remiss if he had failed to do so, not only as bound by the law of this country, but by every consideration of military foresight and geographical knowledge. Texas, a State of this Union, called on him to protect her soil from invasion, and he would have been delinquent, if not impeachable, if failing to do so.

Confining this brief report to that single point, your committee will not extend it to the many circumstances posterior to hostilities which encourage the prosecution of the war to speedy peace. The United States suffer few of war's ordinary calamities. Never were they more prosperous and flourishing. In a single campaign the freemen of this country have proved in Mexico what a people are worth when vindicating their rights by voluntary embodiment. In the midst of war, the burdens of the American people have been reduced far beyond the weight of any debt which war may cost. The wealth of the United States has actually been increased to an unexampled amount: a new and admirable system of finance is the creation of this war, alone worth more than all its charges; and if, by vigorous strokes of belligerent force, it be brought to a successful termination, as there is every reason to believe, all its temporary inconveniences will soon be compensated, and the two great republics of this hemisphere united in perpetual peace.

JONATHAN BROWN.

[To accompany bill H. R. No. 681.]

FEBRUARY 24, 1847.

Mr. JENKINS, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom were referred the petition and papers of Jonathan Brown, for a pension, at the first session of the present Congress, reported a bill for his relief, which passed the House of Representatives, but did not pass the Senate. Your committee, on a further examination of the case, arrive at the conclusion that this is a plain case for relief, and adopt the report of the committee at the last session, and ask leave to introduce a bill pursuant to the recommendation therein contained.

MARCH 27, 1846.

The Committee on Revolutionary Pensions, to whom were referred the petition and papers of Jonathan Brown, report:

That it is satisfactorily established that the petitioner, in the spring of 1777, entered the service of his country at the age of fourteen, and performed duty as a drummer in the company commanded by his father. He was then too young for enlistment, and his service was as a volunteer. He continued to serve in this capacity till the winter of 1778, when he was appointed conductor of ordnance at Fishkill, in the State of New York, and served in that capacity twenty months; that, at the close of the war there was due him from the government, for service and rations, the sum of three hundred dollars, the evidence of which indebtedness was sold by his agent, Daniel Delavan, at two shillings and sixpence on the pound. After the war, the petitioner obtained a living by teaching school; and at the advanced age of eighty-five, being infirm and destitute of means of support, is now supported at the public charge in the poor-house of Sullivan county, in the State of New York.

In 1845, an application was made at the Pension Office for placing the name of the petitioner on the pension roll, but was refused, upon the ground, first, that his service as drummer was rendered when too young to entitle him to be deemed a soldier; and, second, that having failed to produce documentary evidence of his appointment of conductor of ordnance, the application based upon this branch of his service was also rejected.

Ritchie & Heiss, printers.

It is obvious from the letter of the Commissioner of Pensions accompanying the papers, that the Commissioner was convinced of the equity and justice of the claim, but did not deem it expedient to depart from his established rules in requiring documentary evidence in such cases; for the Commissioner remarks that "as this claim is not likely to be adjusted by any administrative rules which it would be safe to adopt, I have enclosed you the papers Nos. 1 to 5, inclusive, with a view of enabling you to submit his case to Congress for a special act for relief." The service as conductor of ordnance was of twenty months' duration. This is established by the oath of the petitioner, (whose character for truth and integrity is fully sustained,) and by the affidavits of Daniel Gerow and William Sebring, detailing circumstances corroborative of the petitioner's statement, and also by the affidavit of General Delavan, who was present when the petitioner settled his accounts for his services in the army with William Duer, the comptroller of finance, and afterwards sold for the petitioner the three hundred dollars then received in certificates by the petitioner, for two shillings and sixpence on the pound, as above stated.

The committee do not feel authorized to make any allowance for the service of the petitioner as a drummer, nor for his loss on the certificates received in pay for his services; but having come to the conclusion that the services of the petitioner as a conductor of ordnance for twenty months, in 1779 and 1780, are satisfactorily established, your committee report a bill granting the petitioner a pension at the rate of twenty months' service.

MARCH 27, 1846.

The Committee on Revolutionary Pensions, to whom were referred the petition and papers of Jonathan Brown, report:

That it is satisfactorily established that the petitioner, in the spring of 1777, entered the service of his country at the age of fourteen, and performed duty as a drummer in the company commanded by his father. He was then too young for enlistment, and his service was as a volunteer. He continued to serve in this capacity till the winter of 1778, when he was appointed conductor of ordnance at Fishkill, in the State of New York, and served in that capacity twenty months; that at the close of the war there was due him from the government, for service and rations, the sum of three hundred dollars, the evidence of which indebtedness was sold by his agent, Daniel Delavan, at two shillings and sixpence on the pound. After the war, the petitioner obtained a living by teaching school; and at the advanced age of eighty-five, being infirm and destitute of means of support, is now supported at the public charge in the poor-house of Sullivan county, in the State of New York.

In 1845, an application was made at the Pension Office for placing the name of the petitioner on the pension roll, but was refused, upon the ground, first, that his service as drummer was rendered when too young to entitle him to be deemed a soldier; and, second, that having failed to produce documentary evidence of his appointment of conductor of ordnance, the application based upon this branch of his service was also rejected.

Richard A. Henry, printers.

FLORA BOYT.

[To accompany bill H. R. No. 682.]

FEBRUARY 24, 1847.

Mr. ATKINSON, from the Committee on Revolutionary Pensions, made the following

REPORT :

It appears to your committee that James Boyt was put on the pension list, by an act of Congress specially providing for his case, on the 7th July, 1838, at the rate of \$40 per annum. He died on the 23d April, 1846. His widow, Flora Boyt, applies for a pension, and it seems that she was married to the said James Boyt on the 27th July, 1789, after the expiration of his last period of service, and the committee report a bill for her relief.

Ritchie & Heiss, print.

FLORA BOYT.
[To accompany bill H. R. No. 682]

FEBRUARY 24, 1847.

Mr. Atkinson, from the Committee on Revolutionary Pensions, made the following

REPORT:

It appears to your committee that James Boyt was put on the pension list, by an act of Congress specially providing for his case, on the 7th July, 1838, at the rate of \$40 per annum. He died on the 23d April, 1846. His widow, Flora Boyt, applies for a pension, and it seems that she was married to the said James Boyt on the 27th July, 1789, after the expiration of his last period of service, and the committee report a bill for her relief.

Blackie & Heiss, print.

FLORA BOYD.

[To accompany bill H. R. No. 682.]

FEBRUARY 24, 1847.

Mr. ATKINSON, from the Committee on Revolutionary Pensions, made the following

REPORT:

It appears to your committee that James Boyd was put on the pension list, by an act of Congress specially providing for his case, on the 7th July, 1838, at the rate of \$40 per annum. He died on the 23d April, 1846. His widow, Flora Boyd, applies for a pension, and it seems that she was married to the said James Boyd on the 27th July, 1789, after the expiration of his last period of service, and the committee report a bill for her relief.

Ritchie & Heiss, print.

FLORA BOYD.

[To accompany bill H. R. No. 682.]

FEBRUARY 21, 1847.

Mr. Atkinson, from the Committee on Revolutionary Pensions, made the following

REPORT:

It appears to your committee that James Boyd was put on the pension list, by an act of Congress specially providing for his case, on the 7th July, 1838, at the rate of \$40 per annum. He died on the 23d April, 1846. His widow, Flora Boyd, applies for a pension, and it seems that she was married to the said James Boyd on the 27th July, 1789, after the expiration of his last period of service, and the committee report a bill for her relief.

Richard H. Hays, printer.

SILAS WATERMAN.

[To accompany bill H. R. No. 683.]

FEBRUARY 24, 1847.

Mr. COCKE, from the Committee on Invalid Pensions, made the following

REPORT:

The Committee on Invalid Pensions, to whom were referred the petition and papers of Silas Waterman, having had the same under consideration, beg leave to submit the following report:

That they adopt the report made in this case during the last session of Congress.

JANUARY 30, 1846.

The Committee on Invalid Pensions, to whom were referred the petition and papers of Silas Waterman, having had the same under consideration, beg leave to make the following report:

That Silas Waterman enlisted in the service of the United States in the month of May, 1813, in a company commanded by Captain John Wires, in the 30th regiment of the United States infantry, under the command of Colonel Fausett, for the term of one year. That he served during all of said period, a part of the time as a soldier, and the residue as a waiter and clerk to Colonel Fausett, by his special command. Petitioner states that when his term of service expired, in May, 1814, he desired to enter the army again, but failed to do so upon the urgent solicitations of Colonel Fausett, who was still in the service, and who desired him to retain his former position as waiter and clerk; being assured by his colonel that if he would do so, he should receive the same pay as privates in the service. Under these circumstances, he did not enter the service, but accepted the appointment of waiter and clerk as aforesaid. That some time previous to the battle of Plattsburgh, in September, 1814, he was ordered into the service of Lieutenant Arthur Bestick, quartermaster for the 30th regiment, by Colonel Fausett, to assist in that department. General Macomb, upon hearing of the march of the British troops for Plattsburgh, ordered Colonel Fausett to have the arms of the United States then at Montpelier immediately transported to Burlington, to be in readiness for the volunteers as they arrived. Petitioner states that he received said arms as they arrived at Burlington, and kept an account of the same. Upon the night before the battle

at Plattsburgh, the volunteers came in so fast it was with much difficulty that they could be supplied with arms. Petitioner states that he was engaged during the night in fitting bayonets on the muskets; that, owing to his great anxiety to have all the guns in readiness, he used his hand as a mallet to drive the bayonets on the gun barrels, until he had severely lacerated the ball of his right thumb; he then used his left hand in the same manner until it was likewise severely injured; and, in consequence of which injuries, he has lost the use of both his thumbs. Arthur Bestick, the quartermaster aforesaid, corroborates the petitioner's statement with regard to his services at Burlington, and states that he has no doubt but that the injury above alluded to has produced the disability complained of. John L. Chanelby, proved to be eminent in his profession as a surgeon, testifies that the disability is such as would likely result from the character of the injury. This claim has been presented to the Commissioner of Pensions for his adjudication; he has rejected it solely on the ground that the law only provides for such invalids as incurred a disability while in the service of the United States, and in the line of their duty. The petitioner did not belong to the army—he acted as the clerk to a commanding colonel, by whom he was ordered to assist the quartermaster in receiving and disbursing arms to the volunteers at Burlington; while thus engaged, as a faithful and patriotic citizen, he received a permanent injury. Your committee, believing, from all the circumstances of the case, that the petitioner is entitled to some relief, herewith report a bill.

JANUARY 30, 1846.

The Committee on Invalid Pensions, to whom were referred the petition and papers of Silas Waterman, having had the same under consideration, beg leave to make the following report:

That Silas Waterman enlisted in the service of the United States in the month of May, 1813, in a company commanded by Captain John Wires, in the 30th regiment of the United States infantry, under the command of Colonel Faussett, for the term of one year. That he served during all of said period, a part of the time as a soldier, and the residue as a writer and clerk to Colonel Faussett, by his special command. Petitioner states that when his term of service expired, in May, 1814, he desired to enter the army again, but failed to do so upon the urgent solicitations of Colonel Faussett, who was still in the service, and who desired him to retain his former position as writer and clerk; being assured by his colonel that if he would do so, he should receive the same pay as privates in the service. Under these circumstances, he did not enter the service, but accepted the appointment of writer and clerk as aforesaid. That some time previous to the battle of Plattsburgh, in September, 1814, he was ordered into the service of Lieutenant Arthur Bestick, quartermaster for the 30th regiment, by Colonel Faussett, to assist in that department. General Macomb, upon hearing of the march of the British troops for Plattsburgh, ordered Colonel Faussett to have the arms of the United States then at Montpelier immediately transported to Burlington, to be in readiness for the volunteers as they arrived. Petitioner states that he received said arms as they arrived at Burlington, and kept an account of the same. Upon the night before the battle

Hatch & Hoies, print.

E. G. SMITH.

[To accompany bill H. R. No. 686.]

FEBRUARY 24, 1847.

Mr. SYKES, from the Committee on Patents, made the following

REPORT :

The Committee on Patents, to whom was referred the petition of E. G. Smith, clerk employed in the Patent Office, for compensation for extra service, respectfully report :

That they have examined the petition and papers subjoined, and believe that there is a just claim for such compensation, and recommend that the prayer of the petitioner be granted.

Ritchie & Heiss, print.

E. G. SMITH

and of said bill [To accompany bill H. R. No. 686]

February 24, 1875

Mr. Sykes, from the Committee on Patents, made the following

REPORT:

The Committee on Patents, to whom was referred the petition of E. G. Smith, clerk employed in the Patent Office, for compensation for extra service, respectfully report:

That they have examined the petition and papers submitted, and believe that there is a just claim for such compensation, and recommend that the prayer of the petitioner be granted.

Respectfully,
E. G. Smith, Clerk

NICHOLAS E. THOURON.

[To accompany bill H. R. No. 688.]

FEBRUARY 24, 1847.

Mr. S. ADAMS, from the Committee on Private Land Claims, made the following

REPORT :

The Committee on Private Land Claims, to whom was referred the petition of Nicholas E. Thouron, respectfully report :

That the memorialist made an entry, in March, 1835, of eighty acres of land at Mineral Point, in what was then Wisconsin Territory—now the State of Michigan. It is designated as the east half of the southeast quarter of section 7, township 2, range 2 west. The tract was settled by the memorialist, through an agent, as long ago as in the year 1828, and improvements were made from time to time. Large expenditures of money were made on the spot from the earliest moment, in cutting down timber, clearing the land, opening roads, building a smelting furnace, &c.; erecting storehouse and tavern, and several work-houses, and establishing a ferry for the improvement of the crossing of the Big Platte river, to accommodate the public travelling between Galena and Cassville and Prairie du Chien. These improvements are alleged by the memorialist to have cost him from fifteen to twenty thousand dollars. He alleges and claims a right, under the principles and provisions of the laws, of the United States to guaranty to first settlers the pre-emption rights to lands so improved and settled.

It is alleged that the patent which has been refused at the General Land Office is so withheld because the said tract is supposed to be reserved from sale for the benefit of the smelters and miners as timbered land.

The memorialist believing the refusal to be unjust, appeals to Congress for his relief; and the committee considering his case to be within the rule and principle which would justify and authorize the issuing a patent, report a bill in his favor.

Ritchie & Heiss, print.

NICHOLAS E. THORON.

[To accompany bill H. R. No. 688.]

FEBRUARY 24, 1847.

Mr. S. Adams, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom was referred the petition of Nicholas E. Thoron, respectfully report:

That the memorialist made an entry, in March, 1835, of eighty acres of land at Mineral Point, in what was then Wisconsin Territory—now the State of Michigan. It is designated as the east half of the southeast quarter of section 7, township 2, range 2 west. The tract was settled by the memorialist, through an agent, as long ago as in the year 1828, and improvements were made from time to time. Large expenditures of money were made on the spot from the earliest moment in cutting down timber, clearing the land, opening roads, building a smelting furnace, &c.; erecting storehouse and tavern, and several work-houses, and establishing a ferry for the improvement of the crossing of the Big Platte river, to accommodate the public travelling between Galena and Cassville and Prairie du Chien. These improvements are alleged by the memorialist to have cost him from fifteen to twenty thousand dollars. He alleges and claims a right, under the principles and provisions of the laws of the United States to guaranty to first settlers the pre-emption rights to lands so improved and settled.

It is alleged that the patent which has been refused at the General Land Office is so withheld because the said tract is supposed to be reserved from sale for the benefit of the smelters and miners as timbered land.

The memorialist believing the refusal to be unjust, appeals to Congress for his relief; and the committee considering his case to be within the rule and principle which would justify and authorize the issuing a patent report a bill in his favor.

Richie & Hens, print.

NATHANIEL TRACY.

[To accompany bill H. R. No. 689.]

FEBRUARY 24, 1847.

Mr. DANIEL P. KING, from the Committee on Revolutionary Claims, made the following

REPORT:

The Committee on Revolutionary Claims, to whom were referred the petition of the heirs of Nathaniel Tracy, deceased, and the resolution instructing said committee to inquire into the expediency of allowing to the heirs or legal representatives of Thomas Gordon, deceased, a sum of money due him for services rendered during the revolutionary war, report:

That, on the 7th of February, 1778, two certificates, No. 5167 for \$122 29, and No. 1240 for \$611 57, both specie value, and with interest, together amounting to the sum of \$733 86, were issued from the loan office of the United States to Nathaniel Tracy, deceased, late of Newburyport, Massachusetts. Those certificates have been lost, but they remain on the books of the treasury unsatisfied, as appears by the certificate of the Secretary of the Treasury. The committee therefore report a bill for their payment.

Ritchie & Heiss, print.

NATHANIEL TRACY.

[To accompany bill H. R. No. 689.]

FEBRUARY 24, 1847.

Mr. DANIEL F. KING, from the Committee on Revolutionary Claims, made the following

REPORT:

The Committee on Revolutionary Claims, to whom were referred the petition of the heirs of Nathaniel Tracy, deceased, and the resolution instructing said committee to inquire into the expediency of allowing to the heirs or legal representatives of Thomas Gordon, deceased, a sum of money due him for services rendered during the revolutionary war, report:

That on the 7th of February, 1778, two certificates, No. 8167 for \$123 29, and No. 1240 for \$611 57, both specie value, and with interest, together amounting to the sum of \$733 86, were issued from the loan office of the United States to Nathaniel Tracy, deceased, late of Newport, Massachusetts. Those certificates have been lost, but they remain on the books of the treasury uncancelled, as appears by the certificate of the Secretary of the Treasury. The committee therefore report a bill for their payment.

Richard H. Davis, printer.

[To be annexed to Report No. 76.]

NATHANIEL TRACY.

[To accompany bill H. R. No. 689.]

FEBRUARY 24, 1847.

Mr. St. John, from the minority of the Committee on Revolutionary Claims, made the following

REPORT:

Nathaniel Tracy and others present a petition claiming the amount of two outstanding loan office certificates, issued during the revolutionary war, to wit: on the 7th of February, 1778, one for \$122 29, and the other \$611 57, specie value, with interest from that date to the present time. The petition, in all material respects, except as to the issuing of the certificates, and that the petitioners are heirs-at-law of Nathaniel Tracy, deceased, is founded upon hearsay and belief, and entirely unsupported by any evidence. Hence these are the only facts that can be considered as established. The other allegations, founded upon hearsay and belief, although they may be fully credited by the petitioners, may or may not be true. Without such proof as would satisfy a jury on a trial in open court, these allegations cannot be taken as established. The undersigned will examine this case upon the principle of admitting that the petitioners have established the following facts:

1st. That on the 7th February, 1778, the loan office in Massachusetts, under authority from the continental Congress, issued certificates No. 5167 and 1240, for \$122 29 and \$611 57, specie value, to Nathaniel Tracy.

2d. That the petitioners are his children and grandchildren, and heirs-at-law of said Tracy.

These facts confer no rights upon the petitioners, because—

1. These certificates, when once issued, passed from hand to hand by delivery, precisely as bank notes, bills of exchange, or treasury notes. No person would now predicate a claim for either of these without producing it, upon the simple ground that the same was once issued to him. No court would award a judgment to the claimant on such testimony. He would be called upon to produce the evidence of debt, or prove its actual destruction while he was the lawful owner, so that it could not again be put in circulation; or, if lost, to prove that loss while such owner, and give most ample security to guard against its being presented and claimed by a bona fide holder authorized to demand and receive payment. These principles, sanctioned by justice and common sense for centuries, are as applicable between claimants and the government as between citizens and suitors in courts of justice.

Other allegations in the petition, if true, make most strongly against the conclusion claimed by the petitioners. It is alleged that the elder Nathan-

iel Tracy was a man of large fortune and in extensive business, and that he died in 1796. These facts show that he was undoubtedly a careful business man, knowing his legal rights, and would undoubtedly know the action of the federal government under the constitution upon claims held, if any, by him. His obtaining two certificates of credit of different numbers in 1778, shows that he was not ignorant of his rights nor inattentive to his business matters. In this he did precisely what an active business man, possessed of intelligence and wealth, would have done under similar circumstances. Before the end of the Revolution these certificates, like all others issued by continental authority, depreciated. The fact that these two certificates were issued for a nominal much greater than their specie value, clearly proves that at the time of issue they were greatly below par. The history of those days shows that soon after the formation of the present government, laws were passed by Congress authorizing the funding of all the loan office (as well as some other) certificates issued on account of the public service during the revolutionary war. These laws were passed some years prior to Tracy's death. The violent political agitation growing out of the questions concerning the funding of this class of certificates and other evidences of debt, if even at this late day known to every person conversant with our history, must then have been known to all intelligent men. It would be an impeachment of Mr. Tracy's character as a man of business and intelligence to affirm that he was not cognizant of that fact. No patriot and friend of the Revolution, as Mr. Tracy is claimed to have been, could have failed to note such an important event as the agitation and settling of the greatest financial question ever presented and acted upon by Congress. Upon the adoption of General Hamilton's funding system (too well known to be repeated) these various evidences of public debt suddenly rose in value and were generally promptly funded, and the holders received new evidences of debt binding upon the constitutional government; which evidences have since been paid when presented. None but those who so little observed passing events as not to hear of those funding laws, failed to take advantage of their provisions and convert their former almost worthless certificates into government stock. If Mr. Tracy was in fact such a patriot and business man as he is represented, he would have presented these certificates for stock if he had held them at that time. His not doing so is very strong evidence that he did not own them at that time. His heirs must now, to avoid this conclusion, convict him of stupid ignorance of his legal rights, which is contrary to the tenor of their petition.

The petition alleges, as an excuse for not producing these certificates, that "the books and papers relating to his former property and business," at the time of his death, were not "deemed of any further importance, and were then neglected and lost; and they believe that these certificates, in consequence of such loss, and also of the little value then attached to them on account of their great depreciation in value, have been lost or mislaid." This is probably a fair specimen of the accuracy of these hearsay statements. The history of the times, from 1791 to this day, shows this statement to be founded in manifest error. The first funding law passed in 1791 or 1792, and then these certificates bore great value, and were eagerly sought to be funded. This was the case for several years before Tracy's death, and afterwards. Hence his papers, if these certificates were among them, were not of "little value," but of very considerable

value. It is untrue that they were greatly depreciated at and immediately after Tracy's death. If there had been any such certificates among his papers, Mrs. Tracy, who is stated to have administered on his estate, would have been bound by her oath and the law to have taken an inventory of these very certificates as a portion of his estate, and accounted for the same to her children. It would have been proper, and was probably her sworn duty, to have included them in an inventory, and to have filed it in the office of the probate court having jurisdiction over Tracy's estate. No such evidence being furnished, it is presumed none such exists. Hence, in assuming that after his death Mrs. Tracy lost these certificates, or failed to inventory and account for them if they came into her possession as a portion of her husband's estate, is to cast upon her a serious imputation of negligence to her own interest, and dishonesty towards her children, which her descendants cannot design.

The undersigned has no doubt that Mr. Tracy had parted with these certificates before the funding laws were passed, and that he did not own them at the time of his death. Any other conclusion would be unjust to the memory of him and his wife. The account of their being lost or mislaid is entirely unsatisfactory and unreasonable; and before adopting it, with all its incongruities, it would be more safe to infer that in sending accounts of these certificates from Massachusetts to the treasury, and in the transcribing them into the remaining memorandum, (the compilation of 1816, where they now appear,) an error has occurred in marking these as paid.

2. But if these certificates were really Tracy's at the time of his death, his *heirs* are not entitled to claim them. They belong to his legal representatives. They may have been sold as part of his estate, and now be held by the purchaser; or they may have been allotted to a creditor as payment, on a final settlement before the probate court, or been taken by a next of kin, or may have passed by will to a legatee. It cannot be known but Mrs. Tracy sold them. The universal rule of law is, that personal effects go to the legal representatives; and if these certificates are now paid to the heirs, the former may yet come with a clear, legal, and indisputable claim, which Congress must allow. If Congress pays a mistaken claim, it cannot recover back from the heirs; but if it does so to the legal representatives, the probate courts provide for a legal and proper distribution and for refunding in suitable cases. Hence no payment should be made on any claim but to the legal representatives.

3. It is neither usual nor proper to allow interest on this class of claims to the present time. If these certificates had been funded in 1791, '92, or '93, they would have borne a low interest, which would have ceased many years ago. On loan office certificates which were issued for this class of certificates it is not paid to this time, but to the time when due, and it is not on our recent loans or treasury notes. The holders of legal claims have their right of presentation for payment when due; and it is not the fault of the government if they do not assert their rights. If it is right to allow interest beyond the provisions of the law authorizing a debt in one case, it must be in all. To adopt this principle would be unsafe and unjust. Holders of certificates of loans and treasury notes, and other claims, might omit to call for payment, and insist upon interest at their pleasure, and at a rate even above that paid by individuals. Loans at high rates of interest would be kept at such rates as long as possible. All

public creditors, instead of settling their accounts, and calling promptly for pay, as is clearly best and proper for the government, would hold back to enjoy the advantage of interest. Such a principle would soon put a large portion of the public expenditures upon the usual rate of interest. No man who will consider the consequences can contend for such a practice. The utmost that the real holders of these old loan certificates can reasonably claim, is such interest as they would have received if they had presented and had them funded under the laws passed on that subject immediately after the adoption of the constitution, and that at the then lowest rates. An instance of Congress passing a law allowing more interest, confers no right. There are more precedents against than for it. Bad and unsafe precedents should not be followed.

The undersigned is clearly of opinion that the prayer of the petitioners should be denied.

All of which is respectfully submitted.

HENRY ST. JOHN.

GEORGE GALPHIN—EXECUTOR OF.

[To accompany bill S. No. 88.]

FEBRUARY 24, 1847.

Mr. RATHBUN, from the Committee on the Judiciary, made the following

REPORT :

The Committee on the Judiciary, to whom was referred the petition of Milledge Galphin, executor of the last will and testament of George Galphin, deceased, report :

Prior to the year 1773, the Creek and Cherokee Indians were indebted to the said George Galphin in the sum of £9,791 15s. 5d., sterling money of Great Britain. With the view of creating a fund for the payment of this and other debts, the said Indians conveyed to the British crown a valuable tract of land, from the proceeds of which said debts were to be paid.

Soon after, the war of the Revolution commenced; the independence of the United States was acknowledged by Great Britain, and the lands conveyed by the Indians to the British crown vested in the State of Georgia. No part of the property conveyed for the purpose of creating a trust fund to pay the debt of the testator of the petitioner has ever inured to the benefit of the United States. The State of Georgia has received the whole benefit of the fund, and can at any time apply the proceeds in payment of all equitable claims against it. The United States, on the contrary, has no power to control the fund, or execute the trust.

The treaty between the United States and the Creeks and Cherokees imposes no obligation upon this government to pay the debt in question. The Indians were undoubtedly very willing that the United States should make payment; but it appears that when the treaty was submitted to the Senate for ratification, the clause providing for payment of debts due from the Indians was stricken out. Of course, no claim can be sustained under the treaty.

The committee are of opinion that the prayer of the petition ought not to be granted. They therefore recommend the passage of the following resolution :

Resolved, That the prayer of the petition ought not to be granted.

Ritchie & Heiss, print.

GEORGE CALPIN—EXECUTOR OF

Mr. RATTEN, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom was referred the petition of Mr. George Calpin, executor of the last will and testament of George Calpin, deceased, report:

From the year 1773, the Creek and Cherokee Indians were indebted to the said George Calpin in the sum of \$2,791 10c 50c, owing money to Great Britain. With the view of clearing a fund for the payment of said other debts, the said Indians conveyed to the British crown a valuable tract of land, from the proceeds of which said debts were to be

paid after the war of the Revolution commenced; the independence of the United States was acknowledged by Great Britain, and the lands conveyed by the Indians to the British crown vested in the State of Georgia. No part of the property conveyed for the purpose of clearing a debt to pay the debt of the testator of the petitioner has ever entered into the benefit of the United States. The State of Georgia has received the whole benefit of the land, and can at any time apply the proceeds in payment of all equitable claims against it. The United States, on the contrary, has no power to control the land, or execute the trust. The treaty between the United States and the Creek and Cherokee Indians was undoubtedly very willing that the United States should take payment; but it appears that when the treaty was submitted to the Senate for ratification, the clause providing for payment of debts due from the Indians was stricken out. Of course, no claim can be sustained on the treaty.

The committee are of opinion that the prayer of the petition ought not to be granted. They therefore recommend the passage of the following

Resolution: That the prayer of the petition ought not to be granted.

JOSEPH DE LA FRANCIA.

[To accompany bill S. No. 62.]

FEBRUARY 24, 1847.

Mr. BUFFINGTON, from the Committee on the Judiciary, made the following

REPORT :

The Committee on the Judiciary, to whom were referred the memorial of Joseph de la Francia and Senate bill No. 62, report :

That this memorial and the accompanying documents were before your committee at the last session of Congress, and were then fully considered, and a detailed report made adverse to the claim. No new evidence has been laid before the committee worthy of consideration, and the committee have not been able to discover any thing to alter the opinion then formed and expressed. They therefore beg leave to refer the House to the report then made, and recommend the following resolution :

Resolved, That the said claim ought not to be granted, and that said bill and memorial be laid on the table.

Richie & Heiss, print.

JOSEPH DE LA FRANCHIA.

[To accompany bill S. No. 62.]

FEBRUARY 24, 1847.

Mr. Burdington, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom were referred the memorial of Joseph de la Franchia and Senate bill No. 62, report:

That this memorial and the accompanying documents were before your committee at the last session of Congress, and were then fully considered, and a detailed report made adverse to the claim. No new evidence has been laid before the committee worthy of consideration, and the committee have not been able to discover any thing to alter the opinion then formed and expressed. They therefore beg leave to refer the House to the report then made, and recommend the following resolution:

Resolved, That the said claim ought not to be granted, and that said bill and memorial be laid on the table.

Reed & Hays, print.

THREE PER CENT. FUND TO CERTAIN STATES.

[To accompany bill H. R. No. 690.]

FEBRUARY 24, 1847.

Read, and referred to the Committee of the Whole House on the state of the Union.

Mr. DELANO, from the Select Committee, made the following

REPORT:

The Select Committee to whom was referred the resolution requiring them to inquire into the claims of the States of Ohio, Indiana, Illinois, and Missouri; to 3 per cent. on the minimum price of the lands within their respective limits, which have been sold to satisfy land warrants for services during the revolutionary war, having carefully examined the subject, submit the following as the result of their investigations:

As the questions arising out of the resolution are purely legal, their merits will best be understood and determined by a reference to the laws upon the subject under consideration. First, then, in regard to the claim of the State of Ohio, the following appear to be all the facts necessary to be mentioned: By an act of Congress, approved April 30th, 1802, the people of Ohio were authorized to form a State government for admission into the Union, and certain propositions were thereby offered to Ohio for acceptance or rejection.

One of these propositions was, that 5 *per cent.* of the net proceeds of the lands in said State sold by Congress from and after the 30th June, 1802, should be applied to laying out and making roads *leading from the navigable waters of the Atlantic to the Ohio, and "through said State."* The convention for framing the constitution of Ohio passed an ordinance on the 29th of November, 1802, accepting the aforesaid proposition, with this modification: "that not less than 3 *per cent.* of the net proceeds of the lands of the United States lying within the State of Ohio, sold or to be sold after the 30th of June, 1802, shall be applied to laying out roads *within the State*, under the direction of the legislature thereof." This ordinance further provides, that if Congress shall agree to the above modification, "every and each tract of land sold or to be sold by Congress from and after the 30th day of June, 1802, shall be and remain exempt from any tax laid by or under the authority of the State of Ohio for any purpose whatever, *for the term of five years from the day of sale.*"

On the 3d of March, 1803, an act of Congress was approved accepting the modifications made by Ohio of the previous proposition.

The second section of this act declares, "that the Secretary of the Treasury shall from time to time, and whenever the quarterly accounts of the receivers of public moneys of the several land offices shall be set-

Ritchie & Heiss, printers.

tled, pay *three per cent.* of the net proceeds of the lands of the United States lying within the State of Ohio, which, since the 30th of June last, (1802,) have been, or may hereafter be, sold by the United States, after deducting all expenses, &c., to the State of Ohio; * * * and it is hereby declared that the payments thus to be made, as well as the several appropriations for schools made by the preceding section, *are in conformity with, and in consideration of, the conditions agreed on by the State of Ohio, by the ordinance of the convention of said State bearing date the 29th day of November last, (1802.)*"

By a moment's reflection it will be seen that here was a solemn compact between the State of Ohio and the United States, by which Ohio agreed not to tax the lands of the United States for a period of five years after they had been sold, in consideration for which the United States agreed to give Ohio *three per cent.* upon the net proceeds of the sales of public lands, to be used in making roads in said State.

This contract Ohio has faithfully kept, and the United States have received the benefits of it in the increased demand for the lands, (then in a wilderness,) resulting as well from the construction of roads as from their exemption from taxation for so long a period after being sold.

The committee now proceed to notice certain other facts connected with the aforesaid agreement. In October, 1787, Congress set apart the southern portion of what is now the State of Illinois, and a specified tract in Ohio, to satisfy United States military land warrants; and, by an ordinance of the 9th of July, 1788, provision was made for locating and surveying the warrants within both those districts or tracts. No locations were ever made in the Illinois tract. On the 1st of June, 1796, provision was made for surveying the Ohio tract into townships, and for the location of warrants. The 4th section of this act provides "that all the lands set apart by the first section which shall remain unlocated on the first of January, one thousand eight hundred, shall be released, and shall be at the free disposition of the United States; and all warrants or claims for land, on account of military services, which shall not before the day aforesaid [1st January, 1800] be registered and located, shall be forever barred."

On the 2d of March, 1799, the aforesaid section was repealed, but its provisions were re-enacted, only changing the time to the 1st of January, 1802, after which unlocated warrants were to be *barred*.

On the 26th of April, 1802, the time for locating these warrants was extended to the 1st of January, 1803, after which they were to have been *barred*.

Thus it will be seen, that at the date of the compact between Ohio and the United States, the United States military land warrants not located on the 1st of January, 1803, were to have been void, and the lands in Ohio previously set apart for their satisfaction subject to sale as other public lands. Congress has since revived and continued the vitality of these bounty land warrants, without the consent of Ohio; in consequence of which, a large amount of the public lands within her limits have been taken up in satisfaction of these warrants, which otherwise would have been sold, and upon the proceeds of which Ohio would have received her *three per cents*. The committee think that Congress had no power to restore to legal life these warrants, in such manner as to destroy the legal and equitable claim of Ohio to her per centage upon the amount of lands thus consumed; because, as has been previously shown, Ohio paid

the United States a valuable consideration for this fund, and she is therefore entitled to a full and fair compliance with the contract on the part of the United States. The claim of Ohio, however, embraces another class of military land warrants. When Virginia ceded her claim to the northwest territory to the United States, she provided, that in the event of a deficiency in the tract south of the Ohio river, which she had set apart to satisfy her own military bounty-land warrants, the tract north of the Ohio river, and between the Scioto and Little Miami, should be subject to location by warrants issued for services in her "continental establishment." On the 17th of July, 1788, Congress passed a resolution declaring that all locations and surveys upon lands between the Scioto and Miami rivers, northwest of the Ohio, made prior to the time when a deficiency shall be ascertained in the tract southeast of the Ohio, reserved by Virginia for her warrants, should be void. This resolution was repealed by the act of the 10th of August, 1790, and provision was made for ascertaining what amount of land would be required to satisfy the bounty-land warrants of the State of Virginia for revolutionary services. "On the 13th of May, 1800, certain locations made by the Virginia warrants northwest of the Ohio river were recognised, and patents were authorized to be issued, with this proviso: "*That the whole quantity of land for which patents shall issue by virtue of this act shall not exceed sixty thousand acres, and the surveys aforesaid shall be completed and deposited in the office of the Secretary of War on or before the 1st day of December, 1803.*" On the 23d of March, 1804, an act was passed in relation to the location of Virginia warrants upon the lands northwest of the Ohio river; the 3d section of which declares, "that such of the above-mentioned territory as shall not have been located within the time prescribed by this act, [i. e., prior to the 23d of March, 1807,] *shall thenceforth be released from any claim or claims for such bounty-lands, and shall be disposed of in conformity with the provisions of the act of the 3d of March, 1803,*" before referred to, and which gives to Ohio *three per cent.* on the proceeds of the lands sold within her limits. The time for locating these Virginia warrants has, however, been frequently extended by Congress without the consent of Ohio, and thus a large quantity of public land has been consumed, upon the sale of which Ohio otherwise would have received her three per cent. fund, in pursuance of the original compact. One other fact is worthy of notice. Congress at first attempted to sell the Ohio lands in large tracts; and in the contracts for this purpose, made with John Cleves Symmes and the Ohio Company, United States military warrants were receivable in payment; *thus giving the character of money to these warrants.*

Again, in 1830, the United States authorized scrip to be issued for United States military and Virginia military warrants, upon their surrender to the General Land Office, and this scrip was made receivable in payment for the public lands; and where land is paid for by this scrip, the States receive the per centage on the sales the same as though payment had been made *in money.*

From the foregoing, it appears that the claim of Ohio is based upon the following facts:

First. The United States agreed to give Ohio three per cent. of the net proceeds of her public lands, to be used in making roads, in consideration that Ohio had stipulated not to tax those lands until five years after they had been sold.

Secondly. When this compact was made, the United States had declared that the time for locating her own warrants should cease on the *first day of January, 1803*; and, at the same time, Congress had only provided for locating *sixty thousand* acres of the Virginia warrants within the limits of Ohio, and those locations were to have been made by the first day of December, 1803; after which periods the public lands in Ohio were to have been released from all reservations, and left at the free disposal of the United States as other lands; and all warrants then unlocated were to have been *barred*.

Thirdly. That Congress subsequently, and without the consent of Ohio, revived and gave legal vitality to these bounty land warrants, by means of which they have consumed a large quantity of land, which otherwise would have been sold for money, and upon which Ohio would have received her three per cent. fund.

Fourthly. That at different periods Congress has treated these warrants as money, either by receiving them directly in payment for large tracts sold, or by authorizing their conversion into scrip, and then receiving them in payment for any public land.

The committee have thus come to the conclusion that all the lands in Ohio acquired from the United States by her own warrants, or the warrants of the State of Virginia, which warrants have been restored to life in violation of the compact between Ohio and the United States, should be considered as having been *purchased*, inasmuch as they have been taken to discharge the obligations of the United States.

It will be observed that where lands have been purchased with the scrip issued in lieu of land warrants, Ohio, or any other State similarly situated, would receive her per centage. Virginia military warrants, after the passage of the scrip laws, could be located in Ohio or changed to scrip, at the pleasure of the holder. In many cases the holders surrendered the warrants to the United States, received scrip, and purchased public land in Ohio; while in many other cases the owners located their warrants on Ohio lands. The results to the United States have been the same in either case; their debt was discharged; but to Ohio the effects are quite different—she receives her per centage upon the scrip, but nothing upon the land warrants.

The committee are perfectly satisfied that Ohio, under the laws in force at the time the compact was made with her, is entitled to such sums as will be equal to *three per centum* upon what would have been the purchase money at the then minimum prices of the lands in the "United States military tract," which were located by warrants after the first day of January, 1803; and also of all the lands in the "Virginia military district," the surveys of which were not "completed and deposited in the office of the Secretary of War on or before the first day of December, 1803," as required by the act of Congress of May 13, 1800.

In regard to so much of the resolution as refers to the location of revolutionary military warrants in the other States, the committee will observe, that although Congress originally intended that a portion of those warrants should be located within a part of the present State of Illinois, yet no such locations have been made, the law authorizing the same never having been acted upon. The scrip which has been issued in lieu of such warrants, however, has been applied *as money* in buying lands in all those States since 1830; but as the States have received their per

centage on this, no further legislation seems necessary. There is another subject, however, which interests these and all the other States having unsold public lands, to which your committee will advert.

The land warrants issued for services during the late war with Great Britain were formerly satisfied by locations within certain designated portions of Illinois, Missouri, and Arkansas. The setting apart of such large bodies of valuable lands to satisfy those claims, belonging, as they did, to non-residents entirely, accompanied by all the evils incident thereto, and to the uncertainty as to the genuineness of titles emanating from persons whose identity could be but seldom established, greatly injured the interests and prosperity of those States; and so far, at least, as any such locations were made after the States in which they were situated became entitled to their three per cent. fund, the States are entitled to the same relief as it is proposed to give Ohio; while Indiana is, for the same reason, entitled to a per centage on the value of all the lands within her limits taken to satisfy the "Canadian volunteer warrants."

Since the specific tract in Arkansas, originally set apart to satisfy the last war warrants, has all been appropriated, Congress has provided for the location of unsatisfied warrants, by allowing entries at any of the local land offices. Such locations have been made in many of the States, yet no provision has been made to pay those States the per centage which they would have received had the lands thus located been sold, or paid for by scrip issued in lieu of the warrants. The committee do not see any reason why there should be any difference to the States in which the lands taken are situate, because both modes of satisfying military warrants are the same to the general government; in either case, a debt is paid; the State loses her per centage, however, in the one case, and obtains it in the other, under existing enactments.

The committee have prepared and report a bill, in conformity with the foregoing conclusions.

concern for this, no further legislation seems necessary. There is another subject, however, which interests these and all the other States having unceded public lands, to which your committee will advert.

The land warrants issued for services during the late war with Great Britain were formerly cancelled by locations within certain designated portions of Illinois, Missouri, and Arkansas. The setting apart of such large bodies of land to satisfy those claims, belonging, as they did, to non-residents, was, accompanied by all the evils incident thereto, and to the uncertainty as to the genuineness of titles emanating from persons whose identity could be but seldom established, greatly injured the interests and prosperity of those States; and so far, at least, as any such locations were made after the States in which they were situated became entitled to their three per cent land, the States are entitled to the same relief as it is proposed to give Ohio: while Indiana is, for the same reason, entitled to a per centage on the value of all the lands within her limits taken to satisfy the "Canadian volunteer warrants."

Since the apportionment in Arkansas, originally set apart to satisfy the late war warrants, has all been appropriated, Congress has provided for the location of unceded warrants by allowing entries at any of the local land offices. Such locations have been made in many of the States, yet no provision has been made to pay these States the per centage which they would have received had the lands thus located been sold, or paid for by entry made in lieu of the warrants. The committee do not see any reason why there should be any difference to the States in which the land claim was situated, because both modes of satisfying military warrants are the same to the general government; in either case, a debt is paid; the State loses her per centage, however, in the one case, and obtains it in the other, under existing enactments.

The committee have prepared and report a bill, in conformity with the foregoing conclusions.

The bill is intended to provide for the location of unceded warrants in any of the States in which they were issued, and to pay to such States the per centage which they would have received had the lands thus located been sold, or paid for by entry made in lieu of the warrants. The bill is intended to be a permanent provision, and to apply to all warrants issued during the late war with Great Britain. The committee believe that this bill will be of great benefit to the States in which it is passed, and to the general government. They therefore recommend its passage.

EDWARD W. BULL.

THE SECRETARY OF THE ARMY

February 10, 1895

Mr. Thompson, Chief of the Commission on Indian Affairs, Ottawa, Ontario, Canada.

SIR,

The Commission on Indian Affairs, to which was referred Article 10 of the
Bill, for the relief of Daniel W. Hall, a member of the Commission,
have considered the same, and beg leave to report:

That it appears from the papers in the case of the said Daniel W. Hall, and
from the Commission on Indian Affairs, that the said Daniel W. Hall is a
member of the Commission on Indian Affairs, and that the said Daniel W. Hall
has been appointed, and therefore there is no necessity for the passage
of this Bill.

Yours faithfully,
Edward W. Bull.

SAMUEL W. BELL

[To accompany bill S. No. 83.]

FEBRUARY 24, 1847.

Mr. THOMPSON, from the Committee on Indian Affairs, made the following

REPORT :

The Committee on Indian Affairs, to whom was referred Senate bill No. 83, for the relief of Samuel W. Bell, a native of the Cherokee nation, have considered the same, and beg leave to report :

That it appears from the papers that the claim of Mr. Bell was rejected by the Commissioner of Indian Affairs, because at the time of its consideration the statute of limitation barred its allowance. This act, since that time, has been repealed, and therefore there is no necessity for the passage of this bill.

Ritchie & Heiss, printers.

JESSE ROSE.

FEBRUARY 24, 1847.
Read, and laid upon the table.

Mr. Coker, from the Committee on Invalid Pensions, made the following

REPORT:

The Committee on Invalid Pensions, to whom were referred the petition and papers of Jesse Rose, report:

Your committee do not find any allegation in the petition entitling the petitioner to relief, and no proof of any kind has been produced. They therefore recommend that the prayer of the petitioner be refused.

Ketchie & Hays, print.

MARTHA NORTON—HEIRS OF.

FEBRUARY 24, 1847.

Read, and laid upon the table.

Mr. BRODHEAD, from the Committee on Revolutionary Pensions, made the following

REPORT :

The Committee on Revolutionary Pensions, to whom was referred the petition of Hunn B. Norton and Mary Andrews, heirs at law of Martha Norton, deceased, make the following report :

This committee have repeatedly had under consideration applications for the relief of the heirs of pensioners, but have uniformly decided that the pension laws ought not to be extended beyond existing provisions for the benefit of the heirs of the pensioner; and in conformity with this conclusion your committee have come to the conclusion that the prayer of the petitioners ought not to be granted.

Ritchie & Heiss, print.

JOHN MILLETT.

FEBRUARY 24, 1847.
Read, and laid upon the table.

Mr. Jenkins, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of John Millett for a pension, report:

That the committee have had under consideration the petition above named, and have come to the conclusion that it is unsafe to grant a pension when the claim for service is unsupported by proof. This is a salutary rule, and ought not to be departed from except under very special circumstances, not shown to exist in this case. The committee recommend that the prayer of the petitioner be not granted.

Wm. A. Weeks, printer.

JESSE ROSE.

FEBRUARY 24, 1847.

Read, and laid upon the table.

Mr. COCKE, from the Committee on Invalid Pensions, made the following

REPORT:

The Committee on Invalid Pensions, to whom were referred the petition and papers of Jesse Rose, report :

Your committee do not find any allegation in the petition entitling the petitioner to relief, and no proof of any kind has been produced. They therefore recommend that the prayer of the petitioner be refused.

Ritchie & Heiss, print.

MARTHA NORTON-HEIRS OF

FEBRUARY 24, 1847.
Read, and laid upon the table.

Mr. BARNARD, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Henry B. Norton and Mary Andrews, heirs at law of Martha Norton, deceased, make the following report:

This committee have repeatedly had under consideration applications for the relief of the heirs of pensioners, but have uniformly decided that the pension laws ought not to be extended beyond existing provisions for the benefit of the heirs of the pensioner; and in conformity with this conclusion your committee have come to the conclusion that the prayer of the petitioners ought not to be granted.

Respectfully submitted,

LAWRENCE VAN DYCK AND OTHERS.

FEBRUARY 24, 1847.

Read, and laid upon the table.

Mr. JENKINS, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Lawrence Van Dyck and others, heirs of Jehoachim Van Valkenburg, report :

That it appears that Jehoachim Van Valkenburg was in the revolutionary army, and while thus in the service of his country was killed in a battle with the Indians, leaving a family destitute of support. The petitioners, being his heirs, suppose themselves entitled to some remuneration for the meritorious services of their father, as well as for their loss and privations resulting from his death. This, among many other cases of a like character, does not fall within the limits which Congress has uniformly prescribed for relief. Therefore your committee have come to the conclusion that the prayer of the petitioners should not be granted.

Ritchie & Heiss, print.

LAWRENCE VAN DYCK AND OTHERS.

February 24, 1847.
Read, and laid upon the table.

Mr. Jenkins, from the Committee on Revolutionary Pensions, made the following

REPORT:

The Committee on Revolutionary Pensions, to whom was referred the petition of Lawrence Van Dyck and others, heirs of Jehochim Van Valkenburg, report:

That it appears that Jehochim Van Valkenburg was in the revolutionary army, and while thus in the service of his country was killed in a battle with the Indians, leaving a family destitute of support. The petitioners, being his heirs, suppose themselves entitled to some remuneration for the meritorious services of their father, as well as for their loss and privations resulting from his death. This, among many other cases of a like character, does not fall within the limits which Congress has uniformly prescribed for relief. Therefore your committee have come to the conclusion that the prayer of the petitioners should not be granted.

Richie & Hays, print.

SCHOOL FUND IN ALABAMA AND MISSISSIPPI.

[To accompany bill H. R. No. 684]

FEBRUARY 24, 1847.

Mr. McCLEARNAND, from the Committee on Public Lands, made the following

REPORT :

The Committee on Public Lands, to whom was referred the petition of George S. Houston, of the State of Alabama, praying Congress to reimburse the inhabitants of certain townships in that State for certain school lands disposed of by the United States otherwise than according to the provisions of the act for the admission of the State of Alabama into the Union, have had the same under consideration, and respectfully report :

The committee cannot better explain the general grounds and history of this case, than by incorporating the following communication as a part of their report :

HOUSE OF REPRESENTATIVES,

January, 1847.

SIR: I had the honor, a few days since, of referring to your committee a letter and petition in relation to the sixteenth sections of which the several townships lying within the limits of the Chickasaw cession, were deprived under the treaty between this government and the Chickasaw Indians. I trust that I shall not be considered obtrusive or importunate in offering, through you, to the committee over which you have the honor to preside, a hasty narration of the facts connected with the subject, in order to exhibit the positive justice of the claim, and to show the great importance of prompt and immediate action in reference thereto.

Under the compact between the general government and the State of Alabama, (as between this government and all the new States,) every sixteenth section in each township was set apart for purposes of education. In attempting to make a treaty with the Chickasaw Indians, the general government met with much difficulty; and finally, in order to effect a treaty *at all*, it had to agree with that tribe to sell the entire extent of lands within their limits, (excepting Indian reervations, &c.,) and out of the proceeds establish a Chickasaw fund for the benefit of the said tribe; so that, under the provisions of the treaty thus formed, the sixteenth sections, which, by virtue of the compact with the State, *belonged to the State, or the several townships within the limits before mentioned*, were sold, and the proceeds thereof put in to aid in constituting the said Chickasaw fund.

Ritchie & Heiss, print.

The present governor of Alabama, who represented the district which I now have the honor to represent, succeeded in getting a law passed on the 4th July, 1836, (see 5th volume Little & Brown's edition of the laws,) authorizing other lands to be selected, of equal quantity, which were to be received in lieu of the sixteenth sections of which the aforesaid townships had been deprived. That law, however, confined the new selections to the contiguous land district in the State of Alabama, which restriction rendered the provisions of the said law totally useless and nugatory; for there were no public lands within the limits of that district of any value, and consequently the townships declined receiving them. In 1845, February 5th, (see 5th volume Little & Brown, page 727,) that law was amended so as to extend the area in which selections might be made to any portions of the public lands lying within the States of Alabama and Mississippi. I indulged a hope that, under the law thus amended, land of the requisite extent and adequate quality might be obtained in the States designated. In that hope, however, I find myself totally disappointed; for, after a thorough examination by competent commissioners, the report is, that no lands of sufficient value to induce the said townships to accept them can be found within the proposed limits, and subject to their selection. Hence it is that I now apply, in behalf of the people interested in the said sixteenth sections, for that redress to which they are evidently and unquestionably entitled. Under the compact, the valuable lands composing the original sixteenth sections rightfully belonged to the townships. Those lands were set apart for one of the highest and most interesting purposes; a purpose which lies near and dear to every parent's heart; a purpose which the importance of education and intelligence among the rising generation of our country renders almost sacred. It was to constitute a school fund for the education of children within the townships in which the lands were located. The benefits which the original grants, if left undisturbed, would have conferred upon the people of the said townships, have been lost; not by any act of theirs, but by the act of this government, and as their representative I present their claim for the prompt and favorable consideration of Congress.

There is now no hope or prospect of finding, within reach, any public lands that will answer the purpose of creating an adequate school fund. None can be found which this government ought to wish those townships to receive. The fund growing out of the valuable original sixteenth sections was a sacred one, and the people interested should not be despoiled of it by the fault of the general government. The whole extent of the original sixteenth sections was ——— acres. Much of it, being of the first quality of soil, would now bring a high price in the market; and I do most earnestly hope that your committee will well and faithfully consider all the facts and circumstances herein stated, and that they may promptly do what, in their sense of justice, they may think the nature of the case demands. I respectfully suggest a compensation or substitution in money, at such an amount per acre as may be deemed just and proper. To delay it longer would be only to add to a loss already great. The benefits of the fund have already been lost to the townships for more than ten years; long enough for the interest almost to have amounted to as much as the principal. It should be borne in mind, that during the suspension of this fund there are many children of indigent parents in those townships, who are growing up without receiving the benefits of that educa-

tion to which they are entitled, and consequently are not so well prepared to fill their places in society, or to meet their high obligations to their country, as they otherwise would be.

Impressed, as I am, with a belief that Congress will meet its high obligations in the premises when the subject shall have been fully presented for its action, I respectfully urge upon your committee to take such steps as will open the way for a full and speedy redress of the grievances of which my people complain.

To facilitate your investigations, and to lighten your labors in the examination of the subject, I have given you reference to the laws, as well as the treaties, bearing upon the case.

I have the honor to be your obedient servant,

GEO. S. HOUSTON.

Hon. JOHN A. McCLERNAND,

Chairman of the Committee on Public Lands.

For the purpose of affording more definite information, the committee have felt themselves called upon to refer specifically to the acts of Congress upon this subject. The act to admit the State of Alabama into the Union, approved March 2, 1819, provides, in the sixth section—

“That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands *equivalent* thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.”

Under this clause the State of Alabama claims, and rightfully claims, for the inhabitants of each township, for the use of schools, section numbered sixteen in each township, or *equivalent* lands most contiguous thereto. This provision, it may be assumed, was incorporated for the purpose of securing to the State something like an equivalent or consideration (although it has proved quite inadequate) for the disclaimer of the State of all right to interfere with the primary disposal of the soil, or to tax the same before and for five years after sale, and therefore the provision becomes a part of a contract, and *vests* a corresponding right in the inhabitants of the State. Without enlarging upon this point, the next inquiry which presents itself is, whether this contract has been fulfilled? It is not denied that the State has fulfilled it so far as its engagements extend; but have Congress? By the third article of the treaty with the Chickasaw nation, ratified on the first day of March, 1833, it is provided—

“As a full compensation to the Chickasaw nation for the country thus ceded, the United States agree to pay over to the Chickasaw nation all money arising from the sale of the land which may be received from time to time, after deducting therefrom the whole cost and expenses of surveying and selling the land, including every expense attending the same.”

It is clear, then, that the engagement of the government under the same contract has not been fulfilled to the extent of the school lands comprised within so much of the Chickasaw cession as is situated within the borders of the State of Alabama. An entirely different appropriation has been made of them, and under the solemn provisions of a treaty. What, now, has been done by Congress to reimburse the inhabitants of the townships comprehended within the cession for the school lands thus withheld from them? As early as 1836 Congress passed a law upon the sub-

ject. That law, after providing for reimbursing the State for the five per cent. fund due out of the sales of this cession to the State, proceeds to vest in the State a quantity of land equal to the entire extent of the sixteen sections comprised within the limits of the cession, to be located in tracts not less than quarter sections, in any land district in the State contiguous to the cession. The material enactment is in these words:

"Which said lands, so selected as aforesaid, the same shall vest in the State of Alabama, for the use of schools within said" cession. (Vide Laws of the United States, volume 9, page 543.)

In 1845 another act was passed upon the same subject, which extends the right of locating the selections authorized by the previous act, upon any lands subject to private entry in the States of Alabama and Mississippi, provided the locations should be made within two years after the passage of the act.

It appears that these lands have not been yet located; or if any portion of them is located, it is only a comparatively small quantity. The objection on the part of the State to accepting the locations authorized by the foregoing acts is based upon what is stated as a fact—that no lands of equivalent value to the sixteenth sections in the Chickasaw cession, or near it, can be found among the lands now subject to entry in the States of Alabama and Mississippi.

The following is an extract from a letter from the governor of the State of Alabama, bearing date January 12, 1847, addressed to the petitioner upon this point:

"The commissioners have made their report, in which they state, in substance, that their best efforts to find valuable lands have utterly failed; that the lands selected are barren, and of very little value. From a conversation which I had with the commissioners, I am satisfied that these selections are not worth twenty-five cents per acre."

It appears, from a communication from the acting Commissioner of the General Land Office, before the committee, that the area of the Chickasaw cession within Alabama is $434,589\frac{49}{100}$ acres, of which the quantity comprised in the sixteenth sections, being one thirty-sixth part of the whole, is 12,071 acres. The committee, upon such information as they have been able to obtain, feel themselves authorized to recommend the passage of a law to recompense the inhabitants of the townships within the cession, for the quantity of school lands withheld from them, by authorizing the State of Alabama to locate an equal quantity of lands, subject to entry, in any of the States or Territories.

EDWARD D. BAKER AND THOMAS W. NEWTON.

FEBRUARY 26, 1847.

Mr. McGAUGHEY, from the Committee of Elections, made the following

REPORT:

The Committee of Elections, to whom were referred two resolutions of the House—the first of which was adopted on the 2d January, 1847, and required the committee to inquire and report whether the Hon. Edward D. Baker, a Representative from the State of Illinois, having accepted a commission as colonel of volunteers in the army of the United States, and being in the service of and receiving compensation from the government of the United States as such army officer, has been entitled, since the acceptance and exercise of said military appointment, to a seat as a member of the House of Representatives: the second, adopted on the 6th day of the present month, by which Thomas W. Newton was admitted to a seat and sworn into office as a member of this Congress, and his credentials of election referred to this committee—report:

That, under the second resolution, they have inquired into and ascertained the following to be the facts: that Archibald Yell was regularly elected as a member of the 29th Congress from the State of Arkansas; that some time in the month of July, 1846, he accepted a commission as colonel of volunteers, raised in the State of Arkansas, under an act of Congress, approved May 13, 1846; that the commission thus accepted was made out by the State authorities, but that Colonel Yell and the volunteers under his command were, in said month of July, mustered into the service of the United States; that he yet continues in the service of the United States as a colonel, and receives his pay from the government of the United States. And that Thomas W. Newton was, on the 14th day of December, 1846, elected a Representative in the 29th Congress from the State of Arkansas. To use the language of his certificate of election, he was elected "to fill the unexpired term of Archibald Yell." The committee have no legal evidence before them that Archibald Yell, at any time before the election of Mr. Newton, resigned his seat as a member of Congress. The committee are of opinion that the facts above enumerated present precisely the same question for their consideration under the second resolution as is presented by the House in the first resolution; and therefore it is, that the committee have thought it proper to make a joint report upon both resolutions.

The committee are of opinion that under the fifth section of the first article of the constitution of the United States the House has the right to ascertain and decide upon all questions of law and of fact, necessary to be ascertained and decided, in order to enable it to determine upon the

right of each individual who may claim to be one of its members. And hence the committee instituted an inquiry into the facts of the case referred to them by the second resolution, for the purpose of ascertaining whether such a vacancy existed as entitled the people of the State of Arkansas to elect a successor to Mr. Yell.

The committee are of opinion that the Hon. Edward D. Baker has not been entitled to a seat as a member of the 29th Congress since the acceptance and exercise of the military appointment referred to in the resolution of the House; and that at the time of the election of Thomas W. Newton there existed a vacancy from the State of Arkansas, occasioned by the acceptance by Archibald Yell of a commission to serve as a colonel of volunteers in the army of the United States.

The sixth section of the first article of the constitution of the United States provides that "no person holding any office under the United States shall be a member of either house during his continuance in office." The question then arises, are the offices which have been accepted by these gentlemen *offices under the United States* within the meaning of the constitution? We think they are. If it be urged that the commission is derived from the State authorities, the answer is, that a commission does not confer the office; it is only the evidence of the right to exercise its functions. The commissions of the members of Congress, or, in other words, their certificates of election, are derived from the State authorities. Like the colonels whose cases are now under consideration, their services are rendered to the United States, and they are paid by the United States, but their commissions are derived from the State authorities. It seems to the committee that the question whether the office is held under the United States or under a State, does not depend upon the question who gave the commission, made the election, or conferred the appointment, but upon the question, what are the duties to be performed, the government for whom they are to be performed, and to what government is the officer responsible for a failure to perform? Testing the offices in question by this standard, and there can remain but very little doubt. These colonels perform like services with those of the regular army. They render service to and are paid by the United States, as are the officers of the regular army. They are responsible to the laws of the United States for the manner in which they discharge the duties of their offices.

The committee believe that to hold an office in the army of the United States is incompatible with the office of a member of Congress; and that, therefore, the two offices cannot be held at the same time by the same individual; that it is against the whole theory and spirit of our form of government. The constitution intended that the President should have no power to control the action of Congress in any respect; that it should be perfectly independent. Now, suppose that every member of Congress were a colonel in the army in the service of the United States, and the President, who is by the constitution the commander-in-chief of that army, should come into the halls of Congress and order each individual member to retire immediately (under the penalties inflicted for disobedience of orders) to his post in the army; what would become of Congress? Or suppose, while Colonel Baker was making his speech here this session as a member, the President had come into this hall and commanded him to be silent, or to retire to his regiment in Mexico; suppose that in that speech Colonel Baker had spoken disrespectfully of his

WILLIAM GREER.

[To accompany bill H. R. No. 693.]

MARCH 1, 1847.

Mr. POLLOCK, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom were referred the petition and papers of William Greer, report :

That the petitioner is clearly entitled to the money which he asks to be paid, viz : sixty dollars and twenty-five cents. The petition, and the letter of the gentleman in the Sixth Auditor's office to whom was confided the duty of adjusting his account, are appended hereto, and a bill for his relief is herewith reported.

To the honorable the Senate and House of Representatives :

The petition of William Greer respectfully represents :

That your petitioner, in the year 1843, entered into contract with the "Post Office Department" to supply the States of North Carolina, South Carolina, Georgia, Alabama, and Florida Territory with "post office blanks" for the use of the various post offices throughout the aforesaid States and Territory. By instructions from the department, he was required to keep a supply of all the different kinds of blanks at the post offices at Raleigh, N. C., and Augusta, Ga., where the postmasters in those States were directed to apply for them.

"Instructions" from the department made it the duty of the postmasters at Raleigh and Augusta to receive all orders from postmasters for blanks, to mark the kinds and quantities needed on said orders, and to keep a regular entry or account thereof, which orders, with the kinds and quantities so marked thereon, were required at the "Auditor's office" as vouchers, *before* the contractor's accounts could be settled and paid ; and if any of said vouchers were lost or mislaid, the blanks ordered therein were a total loss to the contractor, which often occurred.

During the first quarter in the year 1843, the postmaster at Augusta sent the orders he had received for blanks under cover to your petitioner, to be handed by him over to the Auditor, as vouchers for the settlement of his accounts with the department, subject to postage on each package, which postage often doubled the amount of the charge for the blanks ordered ; while, at the same time, the postmaster at Raleigh franked all his communications to the petitioner, as was his duty to do.

Your petitioner remonstrated with the postmaster at Augusta against this charge, and requested him either to frank his vouchers or send them to the department, which he refused to do, until the postage paid by your petitioner amounted to \$60 25.

Your petitioner then applied to the Postmaster General to remit the postage paid by him, but the Postmaster General refused to do so. Now these vouchers had to be sent to the Post Office Department, and if the petitioner (who was the contractor) had resided at either of the places of deposit, the vouchers would have been required at the department for the settlement of his account; and because they were wrongfully sent to the petitioner, instead of the department, your petitioner can conceive of no reason why the department should throw the burden of postage in this particular case upon him, when the usage of the department is different, and especially when the amount of postage on the vouchers would have exceeded more than double the amount of the profits upon his contract. Your petitioner therefore respectfully prays that Congress will refund him the amount of \$60 25, which was unjustly charged him on said vouchers; and will ever pray.

The papers are respectfully submitted. The deficient vouchers, or an account of the postage paid, may be had by a call upon the Post Office Department.

WM. GREER.

CITY OF WASHINGTON, June 8, 1846.

Post Office Department to Wm. Greer, Dr.

1843—July.—To cash paid postage on orders from postmasters to the postmaster at Augusta, Ga., and by him forwarded as vouchers for the use of the Auditor of the Treasury for the Post Office Department, in settlement of the accounts, as per vouchers No. 1 to No. 38, inclusive. — \$60 25

WASHINGTON, February 19, 1847.

DEAR SIR: Your note of the 18th instant, making inquiries in relation to the adjustment of Wm. Greer's account by me, whilst I was in the Auditor's office, is received.

You request me to "distinguish the amount of postage paid on orders from postmasters at Raleigh, N. C., and Augusta, Ga., to supply blanks which Mr. Greer ought to have kept on hand at those places, and the amount paid upon envelopes transmitting vouchers for the adjustment of the account."

It is not possible for me to make this distinction, having no data upon which to ground the calculation, and all the light that I can throw upon the subject must be from recollection, having strong impressions made upon my mind growing out of the difficulty and delay in the settlement of his account for want of proper vouchers. I have this morning examined the envelopes in his possession, all of which purport to be from Augusta, and none from Raleigh. I have seen these envelopes before, and

took from them the vouchers which covered the suspended items in his account. They were handed to me by Mr. Greer, instead of having been transmitted to the Auditor; and I feel perfectly satisfied that many or all of these orders were filled at Augusta, and were not sent to Mr. Greer to be filled; and as a further proof that my recollection is right, Mr. Greer wrote to the postmaster urging him to send on the vouchers to Greer's account rendered by him, the postmaster; and instead of enclosing them to the Auditor, they were sent to Greer, and by him handed to me.

There is no evidence before me of his having paid postage on letters ordering blanks, but the whole amount charged seems to be for vouchers enclosed in the envelopes which he charges for.

Several years have transpired since I have had any thing to do with the settlement of Mr. Greer's accounts, and what I now say is entirely from recollection, from impressions made at the time, and now revived from reflection upon the subject.

I am, sir, very respectfully, your obedient servant,

D. SAUNDERS.

Hon. J. R. J. DANIEL,

Chairman Committee of Claims, House of Representatives.

The petitioner says that he entered the military service of the country the 22d day of September, 1776, in the 1st Virginia Rifle Regiment. That he was promoted to the office of Captain in that regiment in the year 1777, and that he continued in service to the close of the war of the Revolution. And he prays that he be paid commutation of five years' full pay from the United States, because that regiment was transferred in October, 1777, from the State line of Virginia into the continental line of the army of the United States, in lieu of the ninth Virginia regiment captured at the battle of Germantown.

The committee have bestowed due and careful deliberation on this claim because similar demands have been presented for commutation by other officers of that regiment, who are similarly situated with this petitioner.

It is in proof in the committee that this petitioner was in service as he asserts, and that he was admitted to the benefits of the act of Congress of the 15th May, 1828, which act provided that only as served to the close of the war, and it is shown by one of the Virginia resolutions of October, 1777, that George Gibson's services were accepted as continental, in October, 1777, in place of the ninth Virginia regiment captured or destroyed at Germantown. The committee are of opinion that the petitioner during the war was beyond question a Continental soldier, and the committee can find no just reason for refusing him the commutation which he prays from the United States, and they extend the same to him as they do to the committee in that resolution.

By act of the legislature of Virginia, passed the 24th December, 1776, (see Henning's Statutes at large, vol. 1, p. 100) it was provided that "all general officers of that State, and all Colonels, Majors, and Subalterns, commanding in the said State, or in the said Commonwealth, raised by the said State, or in the said Commonwealth, for the defence of the United States, who shall serve in the said war, or become supernumerary, as that act provides."

And this law made reciprocal connection between Virginia and the officers of whom this petitioner was one. His service for the war was the duty of the officer, in the defence of the State of Virginia or of the British & Hessians, &c.

look from them the vouchers which covered the suspended items in his account. They were handed to me by Mr. Greer, instead of having been transmitted to the Auditor; and I feel perfectly satisfied that many of all of these orders were filled at Augusta, and were not sent to Mr. Greer to be filled; and as a further proof that my recollection is right, Mr. Greer wrote to the postmaster urging him to send on the vouchers to Greer's account rendered by him, the postmaster; and instead of enclosing them to the Auditor, they were sent to Greer, and by him handed to me.

There is no evidence before me of his having paid postage on letters ordering blanks, but the whole amount charged seems to be for vouchers enclosed in the envelopes which he charges for.

Several years have transpired since I have had any thing to do with the settlement of Mr. Greer's account, and what I now say is entirely from recollection, from impressions made at the time, and now revived from recollection upon the subject.

I am, sir, very respectfully, your obedient servant,

D. SAUNDERS.

Hon. J. R. J. Darnall,
Chairman Committee of Claims, House of Representatives.

CHURCHILL GIBBS.

MARCH 3, 1847.

Read, and laid upon the table.

Mr. JOSEPH JOHNSON, from the Committee on Revolutionary Claims, made the following

REPORT:

The Committee on Revolutionary Claims, to whom was referred the petition of Churchill Gibbs, make the following report:

The petitioner sets forth that he entered the military service of the country the 22d day of September, 1775, in the first Virginia State regiment. That he was promoted to the office of lieutenant in that regiment in the year 1777, and that he continued in service in that office to the close of the war of the Revolution. And his petition is, that he be paid commutation of five years' full pay from the United States, because that regiment was transferred in October, 1777, from the *State line* of Virginia into the *continental line* of the army of the United States, in lieu of the ninth Virginia regiment captured at the battle of Germantown.

The committee have bestowed the greater deliberation on this claim because similar demands have been presented for commutation by other officers of that regiment, who are similarly situated with this petitioner.

It is in proof to the committee that this petitioner was in service as he asserts, and that he was admitted to the benefits of the act of Congress of the 15th May, 1828, which act pensioned such only as served to the close of the war; and it is shown by act of the Virginia assembly of October, 1777, that George Gibson's regiment was transferred to *continental use*, in October, 1777, in place of the ninth Virginia regiment captured or destroyed at Germantown. The merit and service of this petitioner during the war are beyond question. After full consideration, the committee can find no just reason for allowing the commutation which he claims from the United States; and they submit the reasons which carry the committee to that conclusion.

By act of the legislature of Virginia, passed at its May session of 1779, (see Henning's Statutes at large, vol. 10, p. 25,) *half pay for life* was promised to "all general officers of that State, all field officers, captains, and subalterns, commanding or who shall command in the battalions of this Commonwealth raised for the immediate defence of this State, or for the defence of the United States, *who shall serve to the end of the war*," or "become supernumerary," as that act provides.

And this law made reciprocal covenants between Virginia and the officers of whom this petitioner was one. *Full service for the war* was the duty of the officer, in the defence of the State of Virginia or of the

United States, and full allowance of half pay to such so serving was the right of the officer from the State during his life. The State of Virginia had the clear right to transfer her troops to the service and for the defence of the United States, as well as the immediate defence of that State; and whilst the transfer in question was the patriotic and dutiful act of that State, it imposed no other or severer service upon the officer than he was bound to render: double service, in the same identical time, cannot be pretended, when the right of the State to all his service for all *the time* was due Virginia by the stipulations of the contract. Meritorious as the services of the petitioner may have been, (and these are freely admitted,) no just claim can be found for *commutation*. He was in the military service by contract with Virginia, and that contract was for *half pay*, and not for *commutation*. As those services were rendered the United States in part, all that could equitably be expected is a fair and honest fulfilment, by the United States, of the *half pay* promised by Virginia; and *for this* ample provision has already been made by the act of Congress of the 5th of July, 1832, for liquidating the Virginia claims. These half-pay claims were never commuted by Virginia; her courts, whose adjudications made the basis of its legislation by Congress in 1832, never commuted, *by their judgments*, these half-pay claims; and the act of Congress just referred to, in all and each of its references and designations, contemplates *half pay, and half only*, whether it alludes to payments made or to be made, judgments rendered or to be rendered, or liquidations thereafter to be made at the treasury of the United States, on the principles already settled by the supreme court of appeals of Virginia. The United States did assume, in 1832, every obligation which Virginia owed her officers under the act of May, 1779, which act is expressly referred to in the act of Congress, and the *half pay* cases which exist arise under the act of May, 1779. To allow to one of those officers half pay, and another its commutation, would make a discrimination odious and invidious, and incompatible with the judgment of the courts of Virginia, and of that enlarged legislative equity which assumed the liabilities of Virginia, and provided for their payment in 1832. If this opinion of the committee needed support, it will be found in the memorial of the commissioner of Virginia, (the late Governor Gilmer,) who acted by authority of a law of that State when he requested Congress to pay claims of this character.

That memorial says: "The State of Virginia has never commuted the half pay of her officers, as was done by Congress in regard to the half pay of the continental officers. It was not competent for her to do so, or otherwise vary the contract under which the claims were asserted, without the consent of the contracting parties. In some few cases the commutation was voluntarily accepted by the officers of the Virginia State line, but the courts have uniformly rendered judgments *for half pay* when demanded." And it may not be impertinent to this inquiry to add here, that this "*consent*" of the officer has since been determined by an enlightened jurist, then at the head of the treasury, (Mr. Louis McLane,) to be no bar to the half pay, if that consent was given under the circumstances that controlled these demands prior to the passage of the act of Congress of July 5th, 1832. In several cases where Virginia had compounded these claims at her legislative will, by paying five years' full pay, expressedly *in lieu of half pay for life, which was really due*, a salutary and beneficent interpretation of the act of Congress made it the duty of the Secretary of

the Treasury to pay to such officers the full amount of their half pay, deducting this commutation payment so made by Virginia. This was done in the cases of Angus Turner, W. Broadus, N. Welch, and others, and on full consideration of the subject.

This interpretation appears to be wise and equitable, and assures the petitioner that justice will be rendered him under the existing law without further legislation; for justice forbids a distinction of compensation for service in his case, from other cases of like service and demand. And no good reason can exist for discriminating injuriously to the petitioner in commutation payment made him by judgment of the courts from commutation paid others by acts of the legislature of Virginia. If each was paid the claimant without free and full consent, under a knowledge of his rights for half pay, and his means of coercing those rights to justice through the courts, it would be unworthy that equity which is equality to seize advantage from such payment to the prejudice of claims like these, and perpetrate a wrong the more galling by distinguishing in the pay of the officers where there was no distinction in their service. There is no prohibition for justice to the petitioner in the third section of the act of the 5th July, 1832. It is true, that act negatives the power of the Secretary to adjust those claims *for half pay* which have been prosecuted to judgment against the State of Virginia; but that act applies exclusively, as all its sections and clauses manifest, to judgments for half pay, and not to judgments for commutation; for it expressly narrates, in so many words, those cases "paid or prosecuted to judgment against Virginia, and for which that State would be bound on the principles of the *half-pay* cases already decided in the supreme court of appeals of Virginia." Whilst that act explicitly points to "*judgments*," with equal explicitness it defines and describes the particular judgments which the law means to exclude. And this special expression of defined judgments, by a trite rule for interpretation, necessarily excludes all others. And this view of that branch of the inquiry accords with the provisions of the Virginia act of assembly of May, 1779; it coheres with the principles of the adjudication by the courts in Virginia; it is consistent with the memorial of Virginia in 1831, which declares that she never did commute her half-pay debts, and that it was not competent for her to do so; and it is in close conformity to the report of the committee to whom that memorial was referred in Congress, and to the act of Congress of July 5, 1832—the legitimate offspring of these documents and authorities; whilst a contrary interpretation of what was intended by the legislative language, of "*those judgments*," is condemned by them all. It would be rebuked, too, by that justice which cannot countenance a discrimination of emolument where there was identity of service and duty. Upon every view of the case presented by the petitioner, it is believed that he has no claim whatever to commutation from the United States; that whatever claim he may have is to the remainder of his half pay promised by Virginia; and at this time no necessity is discovered for further legislation for his relief.

Resolved, That the committee be discharged from the further consideration of this petition, and that the claimant, or his representative, have leave to withdraw his papers.

the Treasury to pay to such officers the full amount of their half pay, deducting this commutation payment so made by Virginia. This was done in the cases of Angus Turner, W. Broadus, N. Welch, and others, and on full consideration of the subject.

But this interpretation appears to be wise and equitable, and assumes the position that justice will be rendered him under the existing law, without further legislation; for justice forbids a distinction of compensation for service in this case, from other cases of like service and demand. And no good reason can exist for discriminating injuriously to the petitioner in commutation payment made him by judgment of the courts from commutation paid others by acts of the legislature of Virginia. If each was paid the claimant without free and full consent, under a knowledge of his rights for half pay, and his means of securing those rights to justice through the courts, it would be unworthy that equity which is equal to seize advantage from such payment to the prejudice of claims like these, and perpetrate a wrong the more galling by distinguishing in the pay of the officers where there was no distinction in their service. There is no prohibition for justice to the petitioner in the third section of the act of the 5th July, 1832. It is true, that act negatives the power of the Secretary to adjust those claims for half pay which have been presented to judgment against the State of Virginia; but that act applies exclusively to judgments and claims manifest to judgments for half pay, and not to judgments for commutation; for it expressly narrows, in so many words, these cases "paid or presented to judgment against Virginia, and for which that State would be bound on the principles of the half pay cases already decided in the supreme court of appeals of Virginia." Whilst that act explicitly refers to "judgments," with equal explicitness it defines and describes the particular judgments which the law means to exclude. And this special expression of defined judgments, by a title relating to compensation, necessarily excludes all others. And this view of that branch of the inquiry accords with the provisions of the Virginia act of assembly of May, 1779; it coheres with the principles of the adjustment by the courts in Virginia; it is consistent with the memorial of Virginia in 1831, which declares that she never did commute her half pay debt, and that it was not competent for her to do so; and it is in close conformity to the report of the committee to whom that memorial was referred in Congress, and to the act of Congress of July 5, 1832—the legitimate offspring of these documents and authorities; whilst a contrary interpretation of what was intended by the legislative language of "cases judgments," is condemned by them all. It would be rebuked, too, by that justice which cannot countenance a discrimination of commutation where there was identity of service and duty. Upon every view of the case presented by the petitioner, it is believed that he has no claim whatever to commutation from the United States; that whatever claim he may have to the remainder of his half pay promised by Virginia; and at this time no necessity is discovered for further legislation for his relief.

Resolved, That the committee be discharged from the further consideration of this petition, and that the claimant, or his representative, have leave to withdraw his papers, and that he be notified to that effect by the Secretary of the Senate.

MICHAEL HOGAN—ADMINISTRATOR OF.

[To accompany bill H. R. No. 695.]

MARCH 3, 1847.

Mr. DANIEL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom were referred the petition and papers of William Hogan, administrator of Michael Hogan, deceased, report :

Michael Hogan was formerly, and during several years, mercantile agent and factor of the Navy Department at Valparaiso.

In 1841 suit was instituted by the United States against the memorialist to recover a balance claimed to be due to the government from the estate of the aforesaid Michael Hogan, amounting, with interest to the date of the rendition of the judgment in 1845, to \$3,900 19.

This sum, by the admission of parties on the trial, was not in controversy ; but the memorialist set off certain debateable items which had not, but, as he contended, ought to have been allowed to him by the accounting officers of the treasury. Some of the debateable items were conceded by the government, upon the trial, to be legally entitled to an allowance. Judge Nelson, in his charge to the jury, makes those items, which the district attorney (Hon. B. F. Butler) "conceded were no longer in dispute," amount to the sum of \$10,027 66. Judge Nelson adds, "there are other items which are not seriously contested," &c.

Subtracting the sum of \$3,900 19, due by Hogan to the government, from the \$10,027 66 due by the government to Hogan, and it will be seen that there was a balance due the memorialist, on the 13th May, 1845, by the United States, amounting to \$6,127 66.

Besides this amount conceded to be due to the memorialist, the jury found the further sum of \$16,411 77. The language of the certified record is as follows, viz :

"The jury say that they find for the defendant, and certify a balance of \$22,539 24 in his favor; and so say they all."

The accounting officers of the treasury, upon the finding of this verdict, gave the memorialist credit upon the books of the treasury for the sum for which suit was brought, but declined paying him the \$22,539 24 awarded him by the jury. Hence he has petitioned Congress for the payment of the award.

Congress is not bound by the decisions of juries or courts, but each claim is to be examined upon its merits, irrespective of the opinions of individuals or of institutions. The judgments of the wise are entitled to great consideration, but they are not conclusive upon the action of the

legislature. Hence the committee have examined this case in all its parts with reference to its legalities and equities, to ascertain the justice of the appeal for a portion of the public moneys.

In the examination of this case the first thing to be considered is, in what *character* were the services rendered? Was Mr. Hogan an officer, or a mere mercantile agent and factor of the Navy Department? Clearly the latter. If so—and of this opinion were the Senate committees and the courts of the United States—then was the petitioner not entitled to “office rent” and “clerk hire,” and the committee therefore disallow both, and strike the amount paid him for office rent out of the item of \$10,027 66, which was “conceded” by the government at the trial as indisputably due: this amounts to \$3,425, and was paid for office rent up to March 31, 1827. The charge for *additional* office rent, amounting to \$3,399 60, of course should be rejected.

As the government actually owed the petitioner at the time the reconciling statement of the treasury was made, showing him apparently in debt to the United States in the sum of \$2,799 33, and the interest upon this sum, which amounts to \$1,100 86, this interest should be deducted. Clearly the United States is not entitled to interest upon a balance that *in fact* did not exist.

On the other hand, whilst the committee think the damages, costs, and charges upon the bills of exchange drawn on and protested by the department should be paid, amounting to the sum of \$3,142 28, they are yet opposed to allowing interest upon said damages, &c.

The committee is opposed to an allowance of interest upon money advanced by himself or borrowed from others, with which to purchase supplies for ships of war, for the petitioner was allowed a commission of 5 per cent. for purchases, and claims a per centage upon bills on the department in *reimbursement* of all outlays of money used in said purchases. Hence the item of \$1,350 79 (mentioned in the charge of Judge Nelson to the jury) ought not to be paid, for it is for money borrowed or advanced. The idea of allowing him interest on moneys expended because he *thought* that by neglecting to draw bills of reimbursement for four or six months he could appreciate the credit of the United States by such an experiment, is preposterous. His instructions did not authorize him to “play the broker,” nor did the country stand in need of any such display of financial ability. However commendable the *motive* may have been, the *act* does not call for an appropriation from the treasury.

Nor can interest be allowed upon the commissions he may have earned, but which may not yet have been adjusted according to law by the properly authorized accounting officer.

In ordinary transactions between man and man, the debtor must seek out and pay his creditor, or, in default thereof, submit to the payment of interest on the amount of money which he detains from his creditor; but in transactions with governments this rule is reversed. Payments are to be made only by certain persons, (appointed in pursuance of law,) at certain times, in certain specified places, and only *after* all accounts have proved to be correct by certain *other* duly authorized persons; and as all creditors knew, before they became creditors to government, that they could not obtain payment of their dues, nor obtain interest thereon, until *after* their claims to money had been examined and *allowed* by proper accounting officers, the justice of refusing interest cannot be successfully

impugned. If, after an account has been examined, and *allowed* by the legal accountant, and he has issued his warrant accordingly, government does not pay, it would seem that government should *then* occupy the same position as the negligent individual debtor; but to allow all unliquidated accounts and claims past due to bear interest, would be to create a new species of 6 per cent. stocks, the extent and abuse of which no man can foresee, and against the embarrassments which it would be likely to produce it would be difficult to provide.

In this very case the commissions to which the petitioner is entitled amount to \$15,494 95. The interest upon that sum, if allowed, would be much larger than the principal. "This item," says the Senate report, "of Mr. Hogan's claim, is for the allowance of a commission of two and one-half per cent. upon drawing and negotiating, and upon endorsing and negotiating, bills of exchange on the department *in reimbursement* of supplies furnished by him, amounting to \$16,348 02. This claim is sustained by satisfactory evidence: 1st, that such is the usual rate of commission on such transactions at Valparaiso; that such rate of commission has been allowed and paid by the Navy Department to officers rendering such services during and within the time of Mr. Hogan's agency; and, 2d, that the amount so claimed corresponds with the amount which is proven, by sundry reconciling statements received from the office of the Fourth Auditor, and in possession of the committee, to have been disallowed by the accounting officers as a charge of two and a half per cent. commission on bills so drawn, negotiated, and endorsed, presented at the department, and credited in the accounts current rendered by Mr. Hogan."

This item this committee believes, with the Senate committee and with the court and the jury, ought to be paid.

The item for bread, amounting to \$4,548 02, has been much controverted, from the time it was first rejected by the Fourth Auditor (Mr. Amos Kendall) until now; but the committee, after carefully examining the evidence upon the subject, are convinced that it ought to be allowed.

The remaining item is for two and a half per cent. upon the amount of bills negotiated by him for pursers: this ought not to be allowed. One per cent., the sum originally charged and allowed, would seem to be adequate; and the item, thus reduced, amounting to \$689 22, should be paid.

A bill, in accordance with the foregoing principles, is herewith reported.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of William Hogan, administrator of Michael Hogan, deceased, respectfully sheweth: That in obedience to instructions issued by the Solicitor of the Treasury in the year 1841, a suit was instituted in the circuit court of the United States for the southern district of New York, by the district attorney, on behalf of the United States, against your memorialist, in order to recover from him a sum of money alleged by the accounting officers of the Treasury Department to be due to the United States from Michael Hogan, deceased, formerly mercantile agent and factor of the Navy Department at Valparaiso, on a balance of accounts, as

the same were stated in the Fourth Auditor's office; which so alleged balance your memorialist had constantly refused to pay, because he well knew that the United States were in fact and in truth justly indebted to the estate of Michael Hogan, deceased, in a large amount, the allowance and payment whereof had been withheld, to the great injury and prejudice of the said Michael Hogan and his heirs, whose rights it had become the duty of your memorialist to maintain.

Your memorialist prepared without delay to vindicate the justice of his claims, and to defend the suit thus commenced against him by the United States; but in consequence of the death of the Hon. Samuel L. Southard, who was the counsel of your memorialist, and the subsequent death of the Hon. Smith Thompson, associate justice of the Supreme Court of the United States, in whose circuit the cause was to be tried, the same was not brought to trial until after the appointment of his successor, associate Justice Nelson.

Your memorialist further represents that, at a circuit court of the United States for the southern district of New York holden by Judge Nelson, in the month of May, 1845, the issue thus made by the United States with your memorialist was tried upon its merits, as presented to the court and jury, by reciprocal admissions of the parties plaintiff and defendant, and by the testimony produced on either side in respect of one or two matters of fact which were necessarily the subjects of evidence and of proof; and after the evidence was closed, and the cause had been summed up by the respective counsel, and before the judge gave his charge to the jury, it was distinctly admitted, and in substance stated on the part of the United States, by the district attorney, Mr. Butler, formerly Attorney General of the United States, that, upon the principles of law applicable to the case, as presented by the admitted facts, a large sum of money was clearly due to your memorialist, and that a further amount would also be due and payable to him if the jury should find that the facts which were material to that conclusion (which facts had always been asserted by the defendant, but had not been admitted by the government) had been proven by the testimony produced on the trial.

Thereupon the judge, after recapitulating and commenting upon the evidence and the points in controversy which required consideration, gave the matter in charge to the jury, which withdrew for deliberation; and on coming into court, found a verdict in favor of your memorialist, and certified that there was, on the 14th day of May, 1845, due and owing to him from the United States a balance of \$22,539 24, as appears by an extract from the records of the trial, certified by the clerk under the seal of the court, hereto annexed.

Your memorialist well hoped that the money thus judicially ascertained and declared to be due to him, as well by admissions as by strict legal proofs, by a tribunal chosen by the government, and before which he had been compelled, at great expense and much inconvenience, to appear as defendant, would have been paid to him without further delay or denial; but he has been informed that although the accounting officers of the Treasury Department are so far holden to recognise the verdict of the jury as to have cancelled the claim set up by the government against your memorialist, they are not competent to provide for the payment of the balance due to him. And inasmuch as the prerogative of sovereignty inherent in the government precludes the entering up of judgment and

issue of execution against the United States, your memorialist finds that the verdict of the jury is only the unsubstantial shadow and mockery of justice, until the aid and intervention of Congress shall perfect the redress intended to be given, by making an appropriation to pay the balance due to him.

But although such verdict is thus divested of the effect it would have had in case the litigation had been between private citizens, and is thus inefficient as a measure of relief and of justice, it constitutes nevertheless the highest possible evidence of the indebtedness of the government, and it may not be denied that the prompt discharge of such indebtedness on the part of the United States is a matter of obligation at least as strict and sacred as it would be on the part of an individual debtor. This obligation assumes, indeed, a higher character when it is considered that the creditor is deprived of the ordinary means of coercing payment which may be employed against a reluctant private debtor; and that a government which proclaims that justice shall not be denied nor delayed, may nevertheless fall into the exercise of oppressive tyranny, merely by delaying to give due effect to the judgments of its courts in favor of individual citizens.

Your memorialist respectfully prays that an appropriation may be made authorizing the payment to your memorialist of the sum of \$22,539 24, with interest from the 14th day of May, 1845.

Dated Washington, January 15, 1846.

WILLIAM HOGAN,

Administrator of Michael Hogan, deceased.

At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on Tuesday, the thirteenth day of May, in the year of our Lord one thousand eight hundred and forty-five.

Present: the Honorable SAMUEL NELSON, *Judge.*

THE UNITED STATES

vs.

WILLIAM HOGAN, administrator, &c.
of MICHAEL HOGAN, deceased.

This cause being still on trial, the jurors are called, and severally answer to their names.

Mr. Butler continues summing up for the plaintiff.

Charge is thereupon given by the court to the jury, who retire under the charge of an officer duly qualified to attend them, and are directed to bring in a sealed verdict at the opening of the court to-morrow.

WEDNESDAY, MAY 14, 1845.

The jury in this cause come into court, and bring a sealed verdict.

The jury say that they find for the defendant, and certify a balance of twenty-two thousand five hundred and thirty-nine $\frac{24}{100}$ dollars in his favor; and so they say all.

I, Alexander Gardiner, clerk of the circuit court of the United States for the southern district of New York, in the second circuit, do hereby certify that the above is a true copy from the minutes of trial in the above cause.

In witness whereof, I have hereunto set my hand and the seal of the said court this twenty-eighth day of May, in the year of our Lord one thousand eight hundred and forty five, and of our independence [SEAL.] the sixty-ninth.

ALEXR. GARDINER, *Clerk.*

I further certify that there has been no bill of exception or writ of error filed in the above case since the said verdict was rendered.

ALEXR. GARDINER, *Clerk.*

JANUARY 10, 1846.

UNITED STATES CIRCUIT COURT.

THE UNITED STATES
vs.
WILLIAM HOGAN, administrator of
MICHAEL HOGAN, deceased.

It is agreed that at the trial of this cause the defendant will admit that letters of administration have been duly issued to him in due form of law, and that he is the administrator of Michael Hogan, deceased.

And it is also admitted that the transcript No. 5524 is full evidence of the balance therein mentioned as due upon general account from the estate of Michael Hogan, deceased, subject to the defendant's plea and set-off.

The plaintiff will admit at the trial, in relation to the defendant's set-off, the following facts, so that the questions of law between the parties may be as fairly raised as if the transcripts, with the reports and all the admitted vouchers, were produced:

In relation to the claim set off for drawing and negotiating at Valparaiso bills of exchange on the department in reimbursement, two and one-half per cent. on \$619,798 is \$15,494 95.

It is admitted that the amount of bills drawn by Michael Hogan on the department was	\$568,139 29
The premium received on the same was	27,524 86
The amount of two bills drawn by Winter, Britain, & Co. on Winter, Britain, & Waddington, transferred by Commodore Stewart to Michael Hogan, and collected by him, was	24,133 85

619,798 00

on which commission at the rate of two and one-half per cent. would be \$15,494 95, if he be entitled to commission, and at such rate.

The above sum (\$619,798) includes \$27,700, the amount of six bills drawn by Mr. Hogan, but not paid by the Navy Department. (See reconciling statement.)

It is admitted that the amount of bills of exchange drawn by navy pur-
sers, and negotiated by M. Hogan, with his endorsement, was \$34,123;
and that if he be entitled to commission for endorsing and negotiating
such bills, the commissions are to be reckoned on such amount.

It is admitted that the vouchers admitted for the supplies of the Con-
stellation, &c. in 1821-'2, amounted to \$30,524; and that the Fourth
Auditor, under the direction of the Secretary of the Navy, upon sufficient
proof, found that the sum of \$340 76 was due to Michael Hogan for five
months' interest on moneys borrowed by him to pay for such supplies, (the
residue being made good out of his own means,) and that such credit was
disallowed by the Second Comptroller, June, 1832.

It is admitted that the balance due for office rent would be \$2,100, if
the allowance made to Michael Hogan up to 31st March, 1827, had been
continued; and that the first notice of disallowance was given to him in
the reconciling statement, dated Fourth Auditor's office, 3d April, 1829,
signed Amos Kendall.

In relation to the claim set off for "amount due for bread provided for
the public service, and destroyed by flood in the public store, \$4,548 02,"
it is admitted that "the justice of that claim never was denied, but its al-
lowance was suspended for further proof," which it is stated has been
found, and will be submitted to the jury.

The paper dated Fourth Auditor's office, December 18, 1841, signed
A. O. Dayton, Fourth Auditor, is admitted as evidence that the several
items of the defendant's set-off as therein specified in said papers have
been presented for allowance to the accounting officers of the department;
and in like manner the various reconcilements, signed by J. McDaniel,
stating clerk, and by Amos Kendall, Fourth Auditor, as well as other pa-
pers noticed, to be produced by the plaintiff, under the signatures of the
Secretary of the Navy and the Fourth Auditor, respectively, so far as the
same may be competent evidence, are admitted as fully as if certified un-
der the seal of the Treasury Department.

Signed by me, in pursuance of instructions from the Fourth Auditor
and the Solicitor of the Treasury, May 28, 1844.

O. HOFFMAN,
United States Attorney.

UNITED STATES CIRCUIT COURT, Southern District of New York.

THE UNITED STATES	} 13th May, 1845.
<i>vs.</i>	
WILLIAM HOGAN, administrator of MICHAEL HOGAN, deceased.	

OPINION OF THE COURT.

Judge NELSON: There are several items embraced in this controversy
which it is conceded by the district attorney are no longer in dispute. I
make the aggregate at \$10,027 66. These will not engross much of your
attention. There are other items which are not seriously contested, but
upon which, together with the residue of the defendant's set-off, it is ne-

cessary and proper that you should exercise your judgment. In cases of this kind there is always great difficulty in getting at those material facts which it is important to recollect, in order to arrive at safe and just conclusions. I have noted those which merit attention, and reference to my minutes will refresh your recollections, and perhaps aid you in your deliberations.

This suit is instituted to recover a balance claimed in the Fourth Auditor's office to be due to the government, amounting, with interest to this date, to \$3,900 19. Upon the admissions of the parties this is not in controversy, but the defendant sets off certain debateable items of charge against the government, which have not been allowed to him, which he insists ought to have been allowed, and some of which it is now conceded he is justly entitled to; of this latter class the first charge is for interest on moneys borrowed or advanced from his own funds for the outfit of the United States ships of war at Valparaiso, in 1822-'23 - \$763 10
And interest to this date - - - - - 587 69

Total - - - - - 1,350 79

About one-half of this claim for interest on money borrowed was, it seems, allowed by the Auditor by order of the Secretary, on sufficient proof, but afterwards again disallowed by the Second Comptroller; but no interest was at any time allowed on Mr. Hogan's own money advanced. That he should be allowed interest on money borrowed, but not on his own money advanced, is certainly a singular distinction, for which there is no good reason; and it is now admitted that he is entitled to the amount already stated.

The second item of set-off is for damages on bills drawn by Mr. Hogan in reimbursement, on the undertaking of the government to honor them on presentation; which bills were protested, but which the government, by its acts, afterwards virtually acknowledged should have been paid, and which it appears from the state of the accounts, when they were presented, should have been paid. The justice of this claim is now admitted, and the amount of credit to which the defendant is entitled is (interest on the liquidated damages included) \$5,277 27.

The third item of set-off is for a balance due for office rent. It seems that this charge was allowed up to a certain period, and then disallowed. It is now admitted by the district attorney, and the authorities cited show, that the defendant is entitled to this charge up to the time when notice of its disallowance was received by him, and the amount is ascertained at \$3,399 60; making, as already mentioned, an aggregate of \$10,027 66, which it is now conceded that the defendant is entitled to.

The remaining items of the defendant's set-off are litigated, and it is your province to pass upon them upon the evidence you have had before you.

The first of these items is a commission of $2\frac{1}{2}$ per cent. on bills drawn and negotiated by Michael Hogan, at Valparaiso, on the Navy Department, in reimbursement—\$15,494 95, and interest amounting to as much more. These commissions are upon transactions running through a period of ten years, and the amount on which the per centage is calculated is not in controversy, the question being whether Mr. Hogan was entitled to any commission, and if any, to what rate of commission, for this service; and

the consideration of this matter requires that we ascertain and keep in mind what was his relation to the department. Was it official, or not? It appears from the accounts, as stated in the Fourth Auditor's office, that during much of the time, at least, of his connexion with the Navy Department, he was considered as one of its officers—a navy agent. Now, in such case his compensation would be fixed by law, either by way of salary or perquisite, and the acceptance of such office would be subject to the qualifications and restrictions imposed by law, or by the regulations of the department. But it is now conceded on the part of the United States, and is indeed very clear, that he was not a navy agent, nor stood in any official relation to the department, but was its mere private mercantile agent and factor, and stood towards it precisely as he would have done towards any mercantile house employing him and requiring his services. In such cases compensation is not fixed by law, but depends on agreement, either express or implied: if express, that condition rules; if implied, then we must resort to the *quantum meruit*, or what is the service worth? The latter case is here presented; for although, in 1822, the Secretary of the Navy intimates an allowance of $2\frac{1}{2}$ per cent. commission, that intimation was abandoned, for Mr. Hogan always claimed 5 per cent. for purchases, and $2\frac{1}{2}$ per cent. for drawing and negotiating bills in reimbursement. This was known to the department, as well as his denial to perform the services at the rates suggested by the Secretary. If it was intended to bind him down, he should have been given to understand explicitly that he could have no more; but nothing was said. The accounts ran on: some fifteen or sixteen of them were rendered, in which these charges of 5 per cent. and $2\frac{1}{2}$ per cent. were always made—at the department sometimes 5 per cent., sometimes $2\frac{1}{2}$ credited, on disbursements—but the $2\frac{1}{2}$ per cent. on bills not credited; the agency still continued, services performed, accounts rendered, and continued disagreement about the per centage, so that in that respect nothing transpired between the agent and department binding on either. The subject is now open for the court and jury to settle on just, equitable, and honest principles, as between man and man; the government employing, the agent faithfully rendering service: the one is bound to pay—the other is entitled to receive what such service is worth. (The court adverts to the evidence of Chauncey, Bispham, Crider, Bartlett, merchants from Valparaiso.) The whole evidence shows that mercantile men uniformly charged and received $2\frac{1}{2}$ per cent. for drawing and negotiating bills on those for whom they made purchases on orders; that on drawing bills in reimbursement on such transactions as were required from the agent, his commission would be $2\frac{1}{2}$ per cent.: there can be no dispute about that. It was the ordinary and customary charge of the place; and if the case stood alone upon that question, there can be no doubt but that Mr. Hogan would be entitled to recover the full amount and interest; but it is insisted by the government that if so, yet, on allowing him 5 per cent. on disbursements he has been allowed double the compensation usual with merchants, and therefore equitably and mercantilely, although under different names; yet, as a whole, he has been allowed as much as any *agent* for a merchant, or merchant, would be. Now it appears that for disbursements as a mercantile agent at Valparaiso $2\frac{1}{2}$ per cent. is the usual mercantile rate for provisions and general articles of commerce; and that, in such view, $2\frac{1}{2}$ per cent. for drawing in reimbursement, and $2\frac{1}{2}$ per cent. for disbursing and purchasing, would be 5

per cent., and justice would seem to be done. But there is this further view of the case, on which, mainly, the question will turn: all the witnesses say that the services rendered by Mr. Hogan, as agent for the government, in collecting, procuring, and keeping all the infinite variety of articles of supply required for ships of war, was very much more onerous, expensive, and troublesome, than the conduct of ordinary mercantile transactions, in which whole cargoes are sold and bought by sample; and on which, in a single transaction, closed in a counting-house in an hour's time, larger amounts are bought and sold than Mr. Hogan's whole business running through a year, and extended to very minute details. They state that the usual mercantile commissions give no rule for the measure of compensation for such services; they have no fixed character. Some witnesses say they would not render them for double the amount of commission; others speak of still larger rate. They necessarily were often and most frequently called for unexpectedly, on the arrival of a vessel; were rendered upon sudden orders, upon emergency, and on communications from distant ports with which intercourse was infrequent and uncertain, and embraced all articles of supply from the smallest in value, or in bulk, to the greatest; from that easily obtained to those which were scarce and difficult to be got, unless provided beforehand. Nevertheless, all these facts do not show an established custom. It appears, however, that supplies furnished to whalers and merchant vessels, touching at the port for supplies only, and not for general trade, were charged with 5 per cent. commission on the disbursement for such supplies. Take the case as the government insists, then the 5 per cent. he has been allowed would be just what a private merchant would be allowed for commissions merely on transactions of ordinary mercantile character, undistinguished by any features which except them from the general rule; but upon the evidence, it appears that this is an open question. If you are satisfied from the testimony, from your own knowledge of the emergencies of such service, and from the various character of the articles to be collected or procured, and the difficulties attendant, that the defendant should have more than has been allowed, as a matter of justice for the worth of the services rendered, then allow such additional amount as you think equitable and right; and if the whole sum claimed, $2\frac{1}{2}$ per cent., (\$15,494 95,) is no more than a reasonable and proper compensation in your judgment, then you will allow that, with interest from the time it was earned.

The next item of set-off is for $2\frac{1}{2}$ per cent. commission (\$853 07) on bills drawn by navy pursers, and negotiated by Mr. Hogan, with his endorsement, and the interest on that sum. The remarks applicable to the preceding item are to some extent also applicable in this case; but it is distinguishable in two respects. It is contended that by endorsing such bills he incurred an additional mercantile risk beyond what attached to his own paper. On the part of the government it is insisted that, at the time Mr. Hogan rendered his account to the department, for the year in which those transactions were embraced, he charged only 1 per cent. for such service; and therefore, if a commission be allowed, it should be limited to 1 per cent., and the interest on that sum, amounting together to \$689 22. To this extent this claim is not strenuously resisted; and, referring to Mr. Hogan's accounts, this amount may be deemed to be what he thought the just value of the service at the time it was rendered, and that he is not justified in now asking for a larger amount.

The remaining item of Mr. Hogan's claims which will engage your attention, and which has been much litigated, is the claim for bread procured and paid for by him for the United States ships in 1824-'5, and destroyed by flood in the United States naval storehouse in 1827, amounting to \$4,548 02, and interest, making together \$9,288 67. As to the amount, that is not in dispute. There is certainly some obscurity attending this claim; nor is it surprising that it should be so. More than fifteen years have elapsed since the claim accrued; and from such lapse of time it must be very difficult to get evidence of all the facts that might easily have been had at the time. It would be very difficult to get at proof, even in this country, after so long a time, and must be more difficult under the circumstances of this case, occurring in a distant and foreign country, and with additional embarrassments thrown upon the defendant arising from the death of the party who best knew all the facts. In this condition of things, the proof of this claim devolves on the administrator, the defendant; therefore, it is not surprising that there is some cloud upon a satisfactory result; it could scarcely be otherwise. And I rather think that if there is some slight doubt about the matter, it should perhaps weigh against the government; for it was always in its power to have closed this at an early day, when every thing was fresh in the minds of the parties, and all the testimony could have been had.

It is conceded by the district attorney that if the bread was manufactured or the flour provided before March, 1825, when Commodore Hull's letter to cease baking or buying bread was received, then the government ought to answer for the amount, and ought to compensate the individual. Now, then, the testimony that has been produced is open to remark, and to the free action of your best judgment upon it.

(The court recapitulated the substance of the letters of Mr. Hogan to Commodore Hull, referred to by Mr. Kendall in his letter to Mr. Hogan of 1833, in which he states the claim to be inadmissible on the evidence *then before him*; which letters, with other letters on the same subject, were read in extenso from Mr. Hogan's letter book by the district attorney, *with the defendant's permission*.) From these letters the district attorney draws the inference that the bread made before the commodore's order to discontinue baking was received had been supplied to the squadron, and that the bread destroyed in 1827 must have been procured afterwards; and if so, was Mr. Hogan's own bread, and at his risk. On the other hand, the defendant offers the vouchers sent in to the department, which were held to be of themselves insufficient, and adds much important testimony not before adduced; among which are the depositions of Clay and Macfarlane, and evidence of large advances and payments in fall of 1824, and to April, 1825, and a succession of orders from Commodores Stewart and Hull to buy and bake bread; and proves that a large quantity beyond that shipped to Commodore Hull in July, 1825, was baked 1824-'5; that 804 barrels of American flour and \$1,300 worth of country flour were provided, and a considerable amount in money paid the baker, between October, 1824, and April, 1825; and insists that of the bread then made, the bread destroyed was part and parcel beyond the product of the 400 barrels, the balance of which was shipped in July, 1825, to Commodore Hull, in order to save duty. Macfarlane swears positively that in the fall of 1824 Mr. Hogan made contract with him to bake bread for the United States squadron; that Mr. Hogan was to furnish flour and money for the

purpose, and did so, and was surety for the rent of the bake-house, and paid it; that under that contract he made bread, and delivered it to the ships of war, and also into the naval store of the United States Navy Department, in Mr. H.'s charge; that the bread destroyed was part of that bread; that he attended the survey ordered by Commodore Jones, and knew the bread to be the same bread baked by him under the contract, by his private mark upon it. Then come the various orders: first, Commodore Stewart to Mr. Hogan; then a succession from Commodore Hull, extremely pressing in their character, up to the very last day of 1824, (received by Mr. Hogan about the end of February, 1825.) June 16, 1824, the commodore writes, We want 64,000 pounds bread immediately. You must bake; keep baking; enlarge bakery. On the 5th October he writes, We want bread; keep baking; keep a stock on hand; dry it; a large quantity to be kept in advance. On the 24th of October, Have bread on hand, well baked; we are nearly out. On the 13th December, We will soon be out of bread. On the 23d December, The quantity of bread is nearly out; we want 60 or 70,000 pounds directly; you must continue to bake. Now here is this pressing correspondence, through six months, exciting the agent in all ways to go on baking, and have a large stock on hand. It would be natural that the agent should be active in getting supplies, buying, baking, hoarding up bread, so as to meet emergencies. This idea is carried out by Mr. Hogan's letters in March, 1825, and shown by the facts proven. On the 8th March, 1825, Mr. Hogan received Commodore Hull's letter to cease baking. After six months continued pressure upon him, he writes, on very short notice, to cease. It would be most natural, under such pressure, that the agent should have made large provision in advance; and he answers, 8th March, not supposing bread would be sent out, I made provision for a large supply, and have on hand a large supply. I shall soon have six months' supply baked, from which I cannot desist. Meantime two ships arrive loaded with bread, while much of this large supply was on hand. These are followed by others. Therefore it is not surprising that this bread remained in store till May, 1827, because the ships that came out supplied the squadron. The commodore would not take country bread while American bread was on hand. On the whole, a very strong case is presented on the part of Mr. Hogan. There was a continued and very strong pressure on him to have a large supply in advance, until after it was known that bread would be sent from the United States; and it nowhere appears that he procured any after that time. The amount of his claim is not in dispute. It is \$9,288 67.

The remaining item for clerk hire, amounting to several thousand dollars, cannot be allowed, upon the principles which it is now conceded by the government are applicable to this case; nor is it now contended for very urgently by the defendant.

WASHINGTON, *January 22, 1846.*

I have looked over the above statement of the substance of the charge delivered by me to the jury in the case of the United States *vs.* Hogan, administrator, &c., as taken down by Mr. H. at the time; and although, without my minutes of the time, I cannot speak particularly as to the correctness of all the facts in detail, yet, from my general recollection, I think they are substantially accurate.

I can say, also, that the general views I entertained of the case, both as to the law and the facts, are correctly given above.

S. NELSON.

UNITED STATES CIRCUIT COURT, *Southern District of New York.*

THE UNITED STATES	} Before Judge Nelson, 14th May, 1845.
<i>vs.</i>	
WILLIAM HOGAN, administrator of MICHAEL HOGAN, deceased.	

Conjectural note in relation to the finding of the jury.

Amount conceded by the district attorney to be due to the defendant, as noted in Judge Nelson's charge	-	\$10,027 66
Commission on negotiating, with Michael Hogan's endorsement, bills drawn by pursers, (restricted to the limitation of 1 per cent. and interest, as contended for by the district attorney, and noted by the court)	-	689 22
Amount due for bread, proven at the trial to have been procured and paid for by Michael Hogan for the United States navy	-	9,288 67
Claim set off, 2½ per cent. commission on drawing and negotiating bills on the United States Navy Department, in reimbursement of advances made by Michael Hogan for supplies;		
2½ per cent. on \$619,798 is	-	\$15,494 95
Interest to 12th May, 1845	-	17,709 36
Aggregate	-	<u>33,204 31</u>

On this item of claim and set-off the jury appear to have allowed only about 1 per cent., or	-	6,433 88
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But it is worthy of note that the Naval Committee of the Senate twice reported, and the Senate twice passed a bill in accordance with such report, in which the full commission, \$15,494 95, was awarded to Michael Hogan—(see Senate report 1st session 23d Congress, page 344, with Senate bill 171, May 12, 1834)—but these being private bills, were never reached and finally disposed of by the House.

Aggregate amount of credit in favor of defendant as found	26,439 43
Deduct claim sued for by the United States and admitted to be due, subject to the defendant's plea and set-off—principal	- \$2,849 05
Interest to 12th May, 1845	- 1,051 14
	<u>3,900 19</u>
Balance certified by the jury to be due from the United States to the defendant, William Hogan, administrator, &c., 14th May, 1845	- 22,539 24

Interest from the 14th May, 1845, to be added.

W. HOGAN, *Administrator.*

WASHINGTON, February 4, 1846.

TREASURY DEPARTMENT,
Fourth Auditor's Office, April 11, 1846.

SIR: Since the receipt of your letter of the 30th ult., making certain inquiries in regard to the merits of a claim presented to Congress by William Hogan, as administrator of the estate of Michael Hogan, deceased, I have made a careful examination of the files and records of this office, so far as they were deemed likely to have any relation to the subject, as well as of the papers which you transmitted to me. That Michael Hogan, during the period embraced by his accounts, was not a *permanent agent*, within the meaning of the act of March 3d, 1809, (chapter 199,) is evident, since to constitute him such he must have been appointed by the President, with the advice and consent of the Senate. That he was a navy agent, however, in the usual acceptation of that term, as implying an official connexion with the department, and not a mere private mercantile agent or factor employed by the department, as held by Mr. Justice Nelson in his charge to the jury upon the late trial of the case in New York, is, I must think, equally clear. He was manifestly so considered both by himself and by the department. He styles himself "navy agent" in all the accounts which he rendered to this office, and he claimed the allowances which have been usually made only to persons officially connected with the government. The department, too, constantly addressed him as navy agent, and the duties which he performed were precisely those which by the regulations were assigned to navy agents, to wit: "the purchasing of supplies for the service of the navy, the paying of bills, and the selling of supplies or useless stores." He was not a general and permanent, but a partial and temporary agent, whose duties were confined to the ports of Chili, and were dependant upon the touching of American vessels at those ports. His compensation, therefore, was not prescribed or limited by law, since the only legal provision in regard to the remuneration of navy agents is contained in the act above referred to of March 3d, 1809, and is confined to permanent agents. It follows, of course, that the pay and emoluments he should receive were subject to regulation by the department; and if, when so determined, he should consider them insufficient, he could relieve himself only by relinquishing his appointment. The claimant, however, has had the good fortune thus far to reap, to a considerable extent, the advantages of both positions—that of a navy agent, and that of a private factor. While the jury on the recent trial, under the direction of the court, treated him as if he had been a private mercantile agent, employed by another mercantile house, and allowed him commissions accordingly, he has also been allowed office rent at the rate of \$600 per annum from the 1st of October, 1821, until the close of the year 1829. Now, who ever heard of one merchant allowing to another, whom he may have occasionally employed as a factor, office rent in addition to the usual commission for the services rendered? It is well known that in such case the person employed finds his own place of business. Office rent is a common emolument, granted by the department to its own officers, and it was only in that character that it could or would have been claimed by Mr. Hogan. It was evidently allowed by the Fourth Auditor, for the time during which it was admitted in the accounts, under the impression that the claimant had been acting in an official capacity; and for the same reason there was a simultaneous disallowance of the commission charged, but never authorized by the department, for drawing and negotiating bills

of exchange. It appears to me, therefore, to be unquestionably just, that if Mr. Hogan's estate is to have the benefit of the verdict which was rendered in its favor upon the ground of his having been a mere private mercantile agent, it should be obliged to surrender what could only have been allowed to him as an officer of the department. I do not now refer only to the sum for office rent, which was included in the verdict of the jury, but to the whole amount which was received on that account from the beginning; for although under the agreement of the respective counsel of the parties, and consistently with the ordinary rules of judicial proceeding, and with the legal decisions referred to by the counsel of the claimant, the court might not have been able to exclude any portion of the amount which had been either expressly or impliedly allowed by the accounting officers; yet, when the interposition of Congress is invoked to aid the claimant in securing what he alleges to be due to him, unless the verdict of the jury is to be regarded as conclusive, it would seem perfectly right, in determining what he shall hereafter receive, to take into consideration all the sums which have already been granted him, whether regularly or irregularly, for the service which forms the basis of his demand, and to see that while he claims to have acted in but one capacity, he does not receive the emoluments of two. The compensation of navy agents abroad has always been considered at the discretion of the department, (except in a single instance, where the individual was appointed by the President and Senate;) but the exercise of that discretion has been so varied by circumstances, that I do not think there is any usage so established as to constitute a sufficient guide in any particular case. Thus much may safely be said, however—that the department has never made to any one agent all the allowances which the estate of Mr. Hogan would receive should his present petition be granted. It is true that the jury appears to have awarded him but 1 per cent., or thereabouts, instead of the $2\frac{1}{2}$ per cent. which he claimed upon the amount of bills that he drew and negotiated; but an allowance even to that extent was never made by the department, within my knowledge, to any person similarly situated, who was receiving a commission of 5 per cent. upon his disbursement of public money and his issues of public stores; and the reduction of the commission claimed was no doubt considered by the jury as called for by the admissions of the defendant, for although it was proved that in ordinary mercantile transactions a commission of $2\frac{1}{2}$ per cent. was usually charged, yet Michael Hogan had charged no more than 1 per cent. upon the amount of bills endorsed by him, and negotiated for pursers, while he held the particular situation out of which all his claims arose; and it was distinctly admitted and urged on the part of the defendant that the responsibility and risk of such endorsement and negotiation was equal to, and even greater than that of drawing and negotiating the bills; and Michael Hogan states, in his memorial presented to Congress in 1832, that by the usage of trade the commission in the one case is as large as in the other.

It is certainly the custom of the Treasury Department not to allow interest upon sums due to individuals from the government. This custom is founded, I presume, not so much upon an assumed prerogative, as upon the just consideration that moneys thus due are always held in readiness to be paid upon the application of the creditors; and if my presumption be correct, the practice ought not to prevail where the sum upon which interest is demanded has been detained in consequence of an er-

roneous decision of the accounting officers, or from any other cause, after payment has been called for by the person entitled. If interest were allowed upon balances due under ordinary circumstances, leaving the time of payment to the creditors, it is obvious that it would have the effect of providing for each individual, to whom the United States should chance to become a debtor, an amount of government stock, for an indefinite length of time, bearing interest at the rate of 6 per cent. without a premium. As a balance was found by the accounting officers, however, against Mr. Hogan, it would seem but just that interest should be granted him upon such of his claims (with one exception) as were then disallowed, but which Congress shall now determine to be valid.

The exception to which I refer is the claim for loss on bread; for even though, upon the evidence now produced, it should be deemed an equitable demand, it is scarcely possible that the testimony which was before the accounting officers at the time of its rejection can be thought sufficient to have justified its allowance. The impression produced upon my mind, however, by the evidence as it now stands, is strongly adverse to the admission of the claim. This demand arises out of the injury or destruction of a quantity of bread in the public store at Valparaiso in the year 1827; and the right of the memorialist to the reimbursement which he claims, turns upon the question whether the bread was the property of the United States. On the 2d March, 1825, Michael Hogan received an order from Commodore Hull, the commanding officer on the Pacific station, to bake no more bread for the United States; and that order was never countermanded. A few days afterwards Mr. Hogan wrote to Commodore Hull that he should be obliged to bake all the flour which he then had on hand, because it would otherwise spoil; and if the bread produced from it were not taken on board of the vessels of the squadron before the 28th of July, he would be obliged to pay a duty of two dollars and a quarter on each barrel, and that he should therefore soon have six months' supply baked. In the course of the months of March and April two vessels arrived with large quantities of bread from the United States. On the 23d of July Mr. Hogan sent to Commodore Hull upwards of fifty thousand pounds, which he stated was the last of that which had been made from the flour above referred to as liable to duty if the bread from it should not be delivered before the 28th of July. This was in 1825. In the subsequent part of that year, and in 1826, he made reports to Commodore Hull and to the Navy Commissioners of the quantity of bread on hand, in neither of which does he include any other than that received from the United States. He mentions repeatedly, however, that he *has it in his power to procure* four months' additional supply of such as he had sent to Commodore Hull, but that he will not purchase it without the commodore's consent. Such consent was never given, nor did he receive from any quarter authority to purchase. Having, by his own admission, then, no bread on hand in the year 1826, except such as had been received from the United States, and having no authority to procure any, how was it that in 1827 upwards of fifty-seven thousand pounds were in the public store, which belonged to the government, and had been paid for by him? It is proved, indeed, by Mr. Macfarlane, a baker at Valparaiso, that the bread which was injured by the flood had his mark upon it; but admitting such to be the fact, the only possible way, it appears to me, of reconciling it with Mr. Hogan's reports, is by supposing that the bread

in question was not the property of the United States, but was the same which he stated that he had it in his power to procure, but which he never received authority to purchase.

A very clear summary of the evidence upon this subject, which was before Mr. Kendall when he, as Fourth Auditor, settled the account in 1832, is contained in his letter of the 21st January, 1833, to Mr. Hogan, included among the papers which you transmitted to me. Judge Nelson admits, in his charge to the jury, that there is some obscurity about the claim, but says that he rather thinks the doubt which exists should weigh against the government, because it was always in its power to have closed the matter at an early day, when every thing was fresh in the minds of the parties, and all the testimony could have been had. If I might be permitted to question such high authority, I should express a contrary opinion. It is conceded that the burden of proof was on the part of Mr. Hogan. How, then, I ask, could the government have closed the matter until the requisite evidence was produced? The claim was rejected by the accounting officers, when presented, for want of the necessary proof; and from that time until the recent trial of the case at New York, no further evidence was furnished. It was not in the power of the government, therefore, to close the business; and the laches being entirely on the part of the claimant, he should bear its consequences.

The observations which I have thus made, in compliance with your request that I would express my opinion of the merits of the case, are respectfully submitted to your consideration. If the view which I have taken of the whole subject be correct, after allowing to the estate of Mr. Hogan interest on the moneys borrowed or advanced by him for the government, and the damages (with interest) upon the bills which were drawn by him upon the department and dishonored, there will be found to be no debt due to the memorialist from the United States.

The papers which you enclosed to me are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,

A. O. DAYTON.

HON. J. R. J. DANIEL,

Chairman Committee of Claims, House of Representatives.

NAVY DEPARTMENT, *March 27 1832.*

SIR: Yours of the 23d inst., communicating again the unsettled portions of Mr. Hogan's account, with some additional items, and his own remarks in favor of his claims, has been received. After a careful examination, I regret that I can discover no sufficient reason in the nature of Mr. Hogan's agency, the precedents in similar cases, or the analogies cited, for changing my former decision on any of the former items. Of the new items, my opinion is, they should be all disallowed, except the interest of money borrowed and advanced for the outfit of the Constellation. That claim, though long omitted, seems just, so far as Mr. Hogan may prove that he borrowed money for that purpose, and paid interest thereon before he was reimbursed, by drawing bills on the department, or by some other means.

In order that Congress and Mr. Hogan may understand the principles of my decision, I would refer to the letter addressed to you by me on his

former appeal to this department, and to my letters to the Naval Committee of the Senate this session, in answer to their call for a report on the merits of his claim.

I would only add, that Mr. Hogan has been always treated by this department as a temporary navy agent abroad, contradistinguished from a permanent navy agent either at home or abroad. The first class have been appointed by the department alone; have given no bonds, have continued during pleasure, and been paid whatever was agreed upon, or deemed proper. The others are appointed in pursuance of the law of 1809; need the sanction of the Senate, give large bonds, continue in office four years; are paid only 1 per cent., not exceeding \$2,000 per annum; and are allowed for office rent, clerks, and stationery.

Under this view, Mr. Hogan has been allowed all originally agreed upon; and, indeed, much more. It is believed that he has been allowed as much, if not more, than any other temporary navy agent abroad.

Mr. McCall, the first appointed, received only two and two and one-half per cent. on disbursements and office expense, &c., till 1829, and no such expense after 1829.

Col. Hayne, his successor, receives only two and one-half per cent., not to exceed \$5,000 per annum, and no allowance whatever of expenses, rents, &c.

Mr. Armstrong, to whom reference was made, was a permanent agent, under bonds; has been allowed but one per cent., not to exceed \$2,000 per annum, with the other usual allowances to a permanent agent; and no addition, except on account of travel from Lima to Callao.

Mr. Ludico, also referred to, is neither a temporary nor permanent agent; but merely, by a contract made some years since for a specified annual sum, discharges certain duties under that contract. These are believed to be all the agents we have had abroad besides Mr. Hogan, except Mr. Furniss, at St. Thomas, who receives four per cent. only on disbursements, and no allowances whatever.

The consuls named by Mr. Hogan are not agents of this department, and have no accounts with it; but if employed, are applied to and paid by the pursers according to their agreement. It is usual to allow them five per cent. on disbursements, and the pursers sometimes pay them one per cent. for negotiating bills; but they never have a per centage on invoices, or any allowance for clerk hire, rent, &c., from this department.

The pursers mentioned, who received a per centage for negotiating bills, have not been allowed it of late years; and have not had other allowances of clerk hire, &c., nor had five per cent. on their disbursements.

The commanders, who had a per centage for negotiating bills, have not been allowed it since 1826, if notice of the change of the regulation had been received by them; and did not have it before, under circumstances in other respects resembling those of our temporary navy agents abroad.

I have gone into this detail solely to put the cases cited by Mr. Hogan on their true basis; and to express my willingness to place the settlement of his account on as favorable a footing as that on which any of the like agents has been placed since 1829.

If he takes the case of Mr. McCall, Hayne, Furniss, or any other, (if other there be,) as a precedent, I am willing to reconsider the subject and allow him the same per centage they have had under the same limitations, and the other allowances they have had since 1829. Though it will

probably turn out on investigation, as stated in my report to the Naval Committee of the Senate, that Mr. Hogan has already received in the whole a rate of compensation at least equal to that allowed to any one of the above named agents.

In respect to the claim for costs and charges on protested bills and double payments, I can add nothing to what is stated in the report last mentioned, except that, the present balance against Mr. Hogan in your office being over \$9,000, it would seem that until the department or Congress apply to his claim some principle which will leave a balance in his favor, he can hardly expect the protested bills, whether drawn with proper advice or not, to be adjusted by the drawee.

The payment of Mr. Armstrong's protested bills, before his account was settled, is referred to as a precedent for a different course. But I understand that all Mr. Armstrong's bills had been drawn in regular form and with proper advice; and as he was a permanent agent, under large bonds, and as his sureties were responsible for any balance the department might find due from him on settlement, the bills were taken up. Though Mr. Hogan's bills were not all drawn in that manner, yet after their non-acceptance the department proceeded to pay them when again presented, and when satisfied of their correctness, until it became probable no balance would be found in his favor. As he had no sureties to respond for any over payment, it then seemed proper, under all the circumstances of the case, to suspend payments on the residue of the bills.

Respectfully, yours,

LEVI WOODBURY.

To the FOURTH AUDITOR.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,

January 21, 1833.

SIR: I proceed to give you the grounds of my final decision against your claim on account of bread injured or destroyed in the navy store at Valparaiso.

Your voucher presents the following case, viz :

"To the following quantity of bread baked here in the year 1824, under the orders of Commodore Stewart, confirmed by Captain Hull; which bread has lain in their public store, ready for the use of the squadron on the station, but not called for in consequence of the great quantity sent out by order of the board of navy commissioners, after the flour was bought, and the bread chiefly made therefrom, before advice of any coming out was received :

"57,324 (fifty-seven thousand three hundred and twenty-		
four) pounds of bread, at \$9 per 100 pounds	-	\$5,159 16
"Add commissions, 5 per cent.	-	257 96

5,417 12'

From which are deducted the net proceeds of bread sold	-	869 10
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Due Michael Hogan	-	4,548 02
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It is accompanied by certificates of survey, account of sales, &c., with the following certificate, viz :

“VALPARAISO, August 14, 1832.

“I hereby certify that I received from Michael Hogan, esq., late agent of the United States Navy Department here, in sundry payments, and at various times, five thousand one hundred and fifty-nine dollars sixteen cents, in full payment for the within bread, sold him and delivered to him for the ships of war of the United States during the years 1824 and 1825; and that the same was that which was in their public store, as within expressed, agreeable to surveys, after heavy rains, which spoiled it.

“ROBT. MACFARLANE.”

I take no exceptions to the form of this voucher; nor shall I dwell upon the discrepancy between the voucher and the certificate; the former alleging that the charge is for bread which had been baked out of certain flour which had been bought by you, and the latter that it is for bread purchased by you of Mr. Macfarlane, &c. Your letters contain evidence satisfactory to my mind that both must be erroneous.

You had been authorized to bake bread by Commodore Stewart, as you allege, and the practice was continued after the arrival of Captain Hull. You purchased American flour, which was mixed with Chili flour, and the bread so made was sold to the squadron, the vouchers being made out as if you had purchased it of the bakers.

It seems that about September, 1824, you made an arrangement with Mr. Macfarlane to bake. On the 1st of December of that year you wrote a letter to the Secretary of the Navy, in which you stated that you had then full four months' bread ready for the squadron; and you say, “I have purchased, for account of the department, from Mr. Bispham, supercargo of the ship Jane, from Philadelphia, 400 barrels of flour, at \$8 on board,” &c.

On 8th March, 1825, you wrote to Captain Hull as follows, viz:

“On the 2d of this month I had the honor of receiving your letter of 24th January, by the Dolphin, directing that I should cease baking,” &c. Not presuming that bread would be sent, [from the United States] I made provision for a large supply of that article, encouraged to do so by the cheapness of the flour in this market, which enables me to have on hand for your squadron a large supply of such as the most difficult to please will not be able, with propriety, to find fault with.” “I shall soon have full six months' supply baked, from which I cannot desist, because the flour would spoil; and, agreeable to the stipulations entered into with this government when the flour was purchased, the whole of the bread must be taken on board the squadron before the 28th July next, otherwise the flour of which it is made must pay a duty of \$2 $\frac{1}{4}$ per barrel, chargeable to our government.”

It appears that the store-ship Good Hope arrived on the 16th March, and the Eagle on the 16th April, bringing supplies of bread from the United States.

On 23d July you wrote to Captain Hull, informing him that you then forwarded him 53,935 pounds of bread, exceeding his order by 13,000 pounds. For sending him this excess you give the following reasons, viz:

“First. The whole of it is made of the 400 barrels of Philadelphia flour bought for the department, as advised the Secretary of the Navy on the first of December last. The government have allowed it landed free

of any (except transit) duty, to be baked into biscuit for the squadron, and shipped in eight months; otherwise to be subject to full duties, 27 per cent. on a valuation then of \$7 per barrel. The limited time to save the duties expiring on the 28th of this month, it behooved me to send you this bread, reserving that sent from the United States for next supply; besides which, storage upon it, having been baked for many months, was increasing its cost; and being by accident enabled to obtain this freight very much cheaper than ever before, it influenced my sending you so ample a supply. *This completes the whole of the bread made for the department from that flour*, and is called by all who have seen it the best ever made here."

These 400 barrels of flour do not appear ever to have been charged to the Navy Department in your account; but I find a voucher for 53,935 pounds of bread bought of Robert Macfarlane, on 23d July, 1825, at \$8 per 100 pounds, amounting to \$4,314 80, receipted by him on that day. That this was the bread alluded to in your letter to Captain Hull of the same date, there is no room to doubt.

In a letter to the Secretary of the Navy, dated 10th September, 1825, you say, "The squadron is now victualled to the last day of December next, with every thing, and I have in store, to begin the next year with, four months' supply of the bread *brought by the ship Eagle*, from Alexandria." *"I have also in my power equal to four months' bread, such as that sent to Commodore Hull by the Fame, but will not close for it without consulting him."*

In a letter to the navy commissioners, dated 20th September, 1825, you stated that you had on hand "1,160 barrels of bread brought by the Eagle," and remark: "*It is now in my power to purchase four months' consumption of excellent bread, but will take Com. Hull's opinion before I close it.*"

On 12th January, 1826, you wrote to Com. Hull as follows, viz: "The whole of the provisions brought by the Good Hope and Eagle are now served to the squadron, except 540 barrels of bread, of which a large quantity is consumed by rats." "The 1,200 barrels of bread brought by the Lagrange is untouched."

Appended to a letter dated 8th February, 1826, is a list of public stores then in your possession, which contains only the following items of bread, viz:

"540 barrels of bread, Eagle cargo.

1,200 do do Lagrange cargo."

In a letter to the commissioners, of the same date, you give the same account of bread on hand.

In another letter to the commissioners dated 4th April, 1826, after stating that you had provisioned the frigate United States eight months, you say: "There remained in store on charge with me after she sailed, as follows, viz: 1,200 barrels of bread."

There are various other reports of the quantity of bread on hand previous to June, 1827, but not the slightest notice,* that I can perceive, of the quantity or parcel for which you now claim payment. On the contrary, as well as I can understand your letters to Com. Hull, the Secretary

* The Auditor has overlooked the letters to the commissioners and to Com. Hull, of November, 1826, and commissioners' reply of 26th March, 1827, admitting the overplus on hand.

of the Navy, and navy commissioners, there was not from 23d July, 1825, to 4th June, 1827, any other bread in store with you, at least on public account, than such as had been brought from the United States.

This parcel of bread is stated by you to have been baked in 1824, and Mr. Macfarlane says you purchased it of him "during the years 1824 and 1825." On 2d March, 1825, you received Com. Hull's order to stop baking; you objected to it only on account of the 400 barrels of Philadelphia flour, which, by the terms on which it was landed, free of duty, you were obliged to bake and reship before the 28th July. You proceeded to complete this parcel. On 23d July you shipped it all to the squadron, and on the 10th September, and thereafter, you reported no bread on hand upon public account, except such as had been brought out from the United States; but you twice state that there is a quantity which you can purchase, but will not do it without consulting Capt. Hull.

From these facts, the conclusion is irresistible that the bread destroyed was either bread sent out from the United States, or it was that which on 10th September, 1825, you stated to the Secretary of the Navy you had in your power, but would not close for it without consulting Com. Hull.

If it was bread sent out from the United States, you have no claim to be paid for it, because it was public property. If it was bread which had been left in your care for sale, as from the expressions in your letters seems most likely, then to entitle you to compensation for it you must produce authority for buying it. Your own letters distinctly show that as late as 20th September, 1825, you had not bought it, and that you were then aware of the necessity of obtaining the authority of the commanding officer of the station to justify the purchase. That authority has not been produced, and I am left to the unavoidable conclusion that at the time of its destruction, in 1827, it was in the same condition as in September, 1825, viz: "*in your power*," stowed away in the public store, but its purchase for the public use never authorized, and therefore that it was some one's private property.

If you can produce an order of the commanding officer directing the purchase, it would entirely change the aspect of the case, although, considering the abundant supply on the station, such order would seem to be extraordinary.

Very respectfully, your obedient servant,

AMOS KENDALL.

MICHAEL HOGAN, Esq., *Present.*

Deposition of Robert C. Macfarlane, a witness produced, sworn, and examined the fourth day of August, in the year one thousand eight hundred and forty-three, at Valparaiso, in the republic of Chili, under and by virtue of a commission issued out of the circuit court of the United States of America for the southern district of New York, in a certain cause therein depending, and at issue between the United States of America, plaintiff, and William Hogan, administrator of Michael Hogan, defendant, as follows:

Robert C. Macfarlane, of said Valparaiso, victualler, aged forty-seven years, being duly sworn and examined on the part of the defendant, doth depose and say as follows, viz:

1st. To the first interrogatory he saith : My name is Robert C. Macfarlane ; my age is forty-seven years, and I am by occupation a victualler.

2d. To the second interrogatory he saith : In the years 1824 and 1825 I resided in Valparaiso. I commenced my residence in Valparaiso in the year 1824, and have continued to reside here to the present time.

3d. To the third interrogatory he saith : During the former part of my residence in Valparaiso, I well knew Michael Hogan, now deceased. In the years 1824 and 1825 he resided in Valparaiso. He had resided there some years previous to 1824, and continued to reside there until about the latter end of the year 1831, or the commencement of the year 1832.

4th. To the fourth interrogatory he saith : During the years 1824 and 1825 the said Michael Hogan was consul of the United States for Valparaiso. He was also, during the said years, agent for the Navy Department of the United States for this place ; that is, he was reputed to be such consul and agent, and acted as such.

5th. To the fifth interrogatory he saith : The said Michael Hogan, during the years 1824 and 1825, acting as agent for the Navy Department of the United States, made from me large purchases of ship biscuit, for the use of the ships of war of the United States ; but I do not recollect, and it is out of my power to state the quantity.

6th. To the sixth interrogatory he saith : All payments for the said bread or biscuit were made to me by the aforementioned Michael Hogan ; but I do not recollect, and am unable to state the amount and dates of such payments.

7th. To the seventh interrogatory he saith : The said Michael Hogan paid me for all such purchases, and nothing remains due therefor.

8th. To the eighth interrogatory he saith : About the month of September, 1824, the said Michael Hogan made a contract with me to bake a large quantity of bread for the ships of war of the United States ; this agreement was made in writing. The original thereof I delivered to the said Michael Hogan, at his request, about the time of his final departure from Chili, and I have not again seen it. I have no copy of said agreement ; I do not recollect its contents or terms, except that its general purport was for the supply of biscuit, and that payments therefor were to be made to me as the bread should be from time to time delivered.

9th. To the ninth interrogatory he saith : For the purpose of providing the said biscuit according to the aforementioned contract or agreement, I hired a bakery, and other appropriate buildings, of Don Diego Almeida, situated in the Almendral. The said Michael Hogan gave his personal security for the hire of said premises ; the contract for the said hiring was in writing. The original thereof I have mislaid, and am unable to find it. I have no copy of it, and do not recollect any thing further of its contents, except that the hiring was for a twelvemonth, during which time I occupied them, and that the rent of the whole was, as nearly as I can remember, one thousand three hundred dollars for the whole of said term.

10th. To the tenth interrogatory he saith : I received both funds and flour from the said Michael Hogan, to enable me to fulfil the aforementioned contract at different times between September 1st, 1824, and September 1st, 1825, and did not receive either funds or flour for such purpose at any other time. I received from him both American flour and Coucon ; but in what quantities or proportions I do not recollect. Mr.

Hogan supplied funds for the purposes of the aforesaid contract, whenever wanted either for rent, purchase of flour, or other expenses of the bakery; but in what amounts or at what dates I do not recollect.

11th. To the eleventh interrogatory he saith: I do not recollect either the amount of cash or the quantities of American flour or country flour received from Mr. Hogan.

12th. To the twelfth interrogatory he saith: All the before-mentioned money and flour received by me from Michael Hogan were furnished in pursuance of the purpose of the contract aforesaid, and were reimbursed by deliveries of biscuit under said contract; but I do not recollect at what rate or price.

13th. To the thirteenth interrogatory he saith: I delivered the biscuit baked under said contract both to the said Hogan, into the United States store or warehouse under his charge, and also, by order of the said Hogan, to the United States ships of war. The said store or warehouse was hired and occupied by the said Hogan, as agent of the Navy Department of the United States.

14th. To the fourteenth interrogatory he saith: Provisions and naval stores of various kinds were also stored in said warehouse; and I believe that such provisions and naval stores were the property of the United States.

15th. To the fifteenth interrogatory he saith: I continued to bake for the said Michael Hogan, under said contract, during the time therein specified—that is, from Septembr 1, 1824, to September 1, 1825. I do not recollect what quantity of bread remained in the bakery on the termination of my contract, nor whether there were at that time any vessels of war of the United States at Valparaiso. The biscuit remaining in the bakery at the conclusion of the said contract was delivered by me into the before-mentioned storehouse of the United States, about the end of September, 1825, but I do not recollect what was the quantity of it.

16th. To the sixteenth interrogatory he saith: There were several heavy floods at Valparaiso in the months of May and June in the year 1827, by which much property was destroyed and damaged in most of the warehouses of the city. These floods have been and are yet spoken of as the great floods of 1827. The store before mentioned as the United States naval store, under the charge of the said Michael Hogan, and situated in the Almendral, was inundated by said floods, and a great quantity of the bread received from me and lying therein was injured and destroyed, but I am unable to state what quantity. I was present both at the survey held upon the same, and at the sale thereof.

17th. To the seventeenth interrogatory he saith: During the continuance of the contract before mentioned, there were no precise adjustments or settlements of accounts between the said Michael Hogan and myself. Whenever funds were required by me, they were furnished to me by Mr. Hogan, on account of bread or biscuit delivered, or to be delivered; and no final adjustment of accounts was made between us until some time towards the end of September, 1825, after the completion of the said contract. There was no difference made between deliveries made by me of bread, whether on board the United States vessels or into the before-mentioned store of said Hogan; both were allowed as correct deliveries.

18th. To the eighteenth interrogatory he saith: I remember only one survey held on the bread in question, on account of the floods of 1827.

This survey was held by officers of the United States navy. I do not know by whose authority the survey was held. I do not remember what ships of war of the United States were in port at that time. The bread so surveyed was bread delivered from my bakery. I know of no other bread having been in the aforementioned United States navy store than that delivered by me for the use of the ships of war of the United States.

19th. To the nineteenth interrogatory he saith: I have not in my possession, nor under my control, any documents whatever which in any way relate to the matters inquired of. All papers and documents relative to supplying biscuit for the United States navy between September, 1824, and September, 1825, were delivered by me to Mr. Michael Hogan, at his request, shortly previous to his last departure from Chili.

Last. To the last interrogatory he saith: I know of no other matter or thing material to the defendant in this case.

To the Cross-interrogatories.

1st. To the first cross-interrogatory he saith: I have no interest in the event of this suit.

2d. To the second cross-interrogatory he saith: The said bread was carefully and properly stored. It could not have been in any way stored to guard against the loss and damage occasioned by the before-mentioned heavy floods of 1827.

3d. To the third cross-interrogatory he saith: My knowledge that the before-mentioned bread and biscuit were stored by the said Michael Hogan, as agent for the Navy Department of the United States, is derived from the circumstance that the said Hogan, at the time of making the before-mentioned contract, informed me that the said bread or biscuit was for the United States Navy Department, for the use of the ships of war of the United States; that deliveries of the said bread or biscuit were made by me, by direction of said Hogan, as well on board of ships of war of the United States as into the warehouse occupied by said Hogan, as agent of the Navy Department of the United States; and that all bills for the said bread or biscuit were, by direction of the said Hogan, made out against the Navy Department of the United States, and, as such, were paid to me by the said Hogan, as agent for the said department.

4th. To the fourth cross-interrogatory he saith: I am certain that the bread or biscuit baked by me, and delivered into the said store, was the bread or biscuit injured by the floods of 1827, inasmuch as each biscuit had my initials (R. M.) stamped upon it; and the said United States naval store being opposite to my premises, and under my observation at the time, I am able to speak confidently in this matter.

5th. To the fifth cross-interrogatory he saith that he knoweth not.

6th. To the sixth cross-interrogatory he saith that he knoweth not.

R. C. MACFARLANE.

I hereby certify that the before-written examination was taken, reduced to writing, and by the said Robert C. Macfarlane subscribed and sworn to, this fourth day of August, in the year of our Lord one thousand eight hundred and forty three, before me, the subscribing commissioner. And I further certify that Theodore W. Riley, a commissioner also named in

the commission, had notice of the time and place of executing the same; but being otherwise occupied, did not act.

In witness whereof, I have hereto set my hand and the seal of the
[L. s.] United States consulate in Valparaiso, the day and year last above
written.

EBEN RITCHIE DORR,
Commissioner.

TREASURY DEPARTMENT,
Fourth Auditor's Office, April 28, 1846.

SIR: In answer to verbal inquiries which you have proposed to me with reference to the claim of the administrator of Michael Hogan, deceased, now before the House of Representatives, I have the honor to state that I have not been able to find any case in which the Navy Department has granted to a foreign agent, who, like the late Mr. Hogan, has received a commission of five per cent. upon his disbursements, and upon the invoices of stores received and issued by him, any additional allowance for office rent, clerk hire, or any other object. Mr. Hogan was credited by the accounting officers with \$600 per annum for office rent from the 1st of October, 1821, to the 31st of March, 1827; but no authority for such credit appears ever to have been given by the Navy Department. Andrew Armstrong, who was a permanent navy agent at Lima during a part of the time that Mr. Hogan was agent at Valparaiso, had an allowance of \$2,000 per annum for office rent, clerk hire, and stationery, and \$288 per annum for keeping a horse; but he was confined by law to a commission of one per cent. upon his disbursements, which commission could not exceed two thousand dollars per annum. He eventually received five per cent. upon the moneys disbursed and stores distributed by him, besides other allowances, but it was by a special act of Congress passed for his relief. After his permanent agency had expired, he was employed for some time by the commander of the United States squadron in the Pacific as a factor, and received from the pursers on that station five per cent. upon the purchases and disbursements which he made for the use of the squadron, as his whole compensation. The consuls of the United States, for transacting similar business for the Navy Department, were allowed a commission of five per cent. until the year 1833, when, by a regulation of the department, it was reduced to two and a half per cent. They have had no other allowance.

I further state as a fact, which may have a bearing upon the claim of the memorialist to interest upon the interest of moneys borrowed or advanced by Michael Hogan for the use of the United States frigate Constitution, in the year 1821, as well as upon his demand of interest and damages upon protested bills, that upon every statement of the account of Michael Hogan, from the beginning to the termination of his agency, a balance was found to be due from him to the United States. It is but just to add, however, that on each occasion his own statement exhibited a balance in his favor. The bills which were protested were drawn in the months of July, September, and October, 1830, and may be presumed to have been presented for acceptance about three or four months afterward. Now, upon the settlement by the accounting officers of Mr. Hogan's account for the first

quarter of 1830, which took place on the 30th September of that year, a balance of \$6,421 53 was reported to the Secretary of the Navy as due from the agent to the United States; and upon a subsequent settlement of his account for the second and third quarters of the same year, which was made on the 1st of March, 1831, a like balance was reported of \$3,326 77; and upon the settlement of his account to the 26th of November, 1830, the close of his agency, which settlement occurred on the 31st October, 1831, the Secretary was informed that there was a balance of \$9,901 39 due to the United States.

I enclose a copy of a letter which I have discovered upon the records of this office, written by Mr. Kendall, when Fourth Auditor, to Michael Hogan, dated on the 3d of February, 1832, in relation to the bread for the loss of which indemnity is claimed by the memorialist, supposing that the omission to comply with the request contained in that letter, or to assign a reason for not complying, may be a circumstance worthy of some consideration in reference to that branch of the memorialist's claim.

I have only to add, in explanation of the letter which I had the honor to address to you on the 11th instant, that when at the close of that letter I stated that, agreeably to the view I had taken of the subject to which it related, there would be found to be no debt due to the memorialist from the United States, even though he should be allowed interest on the moneys borrowed or advanced by Michael Hogan for the government, and the damages (with interest) upon the bills which were drawn by him upon the department and dishonored, my estimate was made upon the supposition of the withdrawal of the amount which had been allowed him by the accounting officers, without the authority of the Navy Department, for office rent during several years of his agency.

I have the honor to be, sir, very respectfully, your obedient servant,
A. O. DAYTON.

Hon. J. R. J. DANIEL,

Chairman of the Committee of Claims, House of Representatives.

TREASURY DEPARTMENT,

Fourth Auditor's Office, February 3, 1832.

To enable me to understand the claim advanced by you on account of the loss on bread injured and condemned while in your charge at Valparaiso, I have to request that you will procure from Mr. Macfarlane, baker in that city, a schedule of all bread purchased of him and paid for by you, giving each parcel, with the date of delivery, and price. Also, a schedule of all bread baked by him and delivered to you on account of the United States, for the baking of which he was paid by you, giving parcels and dates. If he keeps books in a regular way, a transcript from them would be most satisfactory. These schedules or transcript must be confirmed by his oath.

I am, sir, very respectfully, your obedient servant,

AMOS KENDALL.

MICHAEL HOGAN, Esq., *Present.*

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I enclose a copy of a letter which I have discovered upon the records of this office, written by Mr. Kendall, when Fourth Auditor, to Michael Hogan, dated on the 2d of February, 1832, in relation to the bread for the loss of which indemnity is claimed by the memorialist, supposing that the omission to comply with the request contained in that letter, or to assign a reason for not complying, may be a circumstance worthy of some consideration in reference to that branch of the memorialist's claim.

I have only to add in explanation of the letter which I had the honor to address to you on the 1st instant, that when at the close of that letter I stated that, agreeably to the view I had taken of the subject to which it related, there would be found to be no debt due to the memorialist from the United States, even though he should be allowed interest on the moneys borrowed or advanced by Michael Hogan for the government, and the damages (with interest) upon the bills which were drawn by him upon the department and dishonored, my estimate was made upon the supposition of the withdrawal of the amount which had been allowed him by the accounting officers, without the authority of the Navy Department, for office rent during several years of his agency.

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I am, sir, very respectfully, your obedient servant,
AMOS KENDALL

Mr. HARRIS HOGAN, Esq., President.

SECRET INSPECTORS.

MARCH 3, 1847.

Mr. HUNGERFORD, from the Committee of Ways and Means, made the following

REPORT :

The Committee of Ways and Means, to whom was referred the letter of the Secretary of the Treasury, in answer to a resolution of the House, adopted December 8, 1846, calling for information in relation to secret inspectors employed in the revenue department, report :

That in the discharge of the duty assigned them, and at the solicitation of the Secretary of the Treasury, they have examined Mr. McCulloh, the First Comptroller, who revises all the accounts of the collectors of the customs, by whom the inspectors are paid ; Mr. Barker, who has charge of the revenue department, and of the papers relating to inspectors assigned to confidential service ; and Mr. Lovejoy, who has charge of the public records appertaining to this matter. They have also examined the books and records of the department, so far as they relate to inspectors ; and, as the result of a thorough investigation, the following facts are clearly established.

That all inspectors are nominated by the collectors of the customs, and if this nomination is approved by the Secretary of the Treasury, the inspector is sworn in as an officer by the collector of the district to which he is attached ; that the only distinction between "*secret*" and "*ordinary inspectors*" is, that the former are authorized and required to perform duties generally out of the district in which they are appointed, and their names are withheld from the public ; that the books, to which every member of Congress has free access, show the names of every inspector in the several districts, with the exception of nine, which are considered confidential. Inspectors of customs are clearly recognised in the law of March 2, 1799, and have been constantly employed in the collection of the revenue since that period. Only nine secret inspectors are now employed ; nor has the number been any larger since the commencement of the present session of Congress. In conclusion, the committee have only to remark, that the letter of the Secretary is proven to be strictly correct in all its parts ; and, for the reasons assigned by him, they concur fully with him in the opinion that the names of the *secret* inspectors ought not to be made *public*.

Ritchie & Heiss, print.

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HUNGERFORD, Chairman.

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